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CHAPTER 4

ENGLAND AND WALES: EMPIRICAL FINDINGS

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1. INTRODUCTION

This chapter examines police practices and safeguards connected to the interrogation of juvenile suspects in England and Wales. Arising out of concerns over police pressure encouraging false confessions in interrogations in the 1970s, the Philips Commission was set up in order to examine the duties and powers of the police and the rights of suspects in respect of the investigation of criminal offences.¹ The murder of Maxwell Confait, a 26-year old homosexual prostitute in 1972 became a *cause célèbre* because of the way in which the police obtained false confessions from three young people. They were all subsequently convicted of serious offences but the convictions were later quashed by the Court of Appeal. Subsequently, the Police and Criminal Evidence Act 1984 (PACE) set out a legislative framework in order to protect suspects arrested and detained by the police, which includes a number of safeguards required during interrogations.² These include the contemporaneous recording of all interrogations with suspects, the right to legal assistance during detention and interrogation, and the provision of an appropriate adult for juveniles and for vulnerable adults. Furthermore, section 76 of PACE requires that for confessions to be admissible in court, they must be voluntary and not the result of coercion and/or oppression. From analysis of interrogations post-PACE, however, it was found that a manipulative form of interrogation had been replaced by a confrontational form in which the police would accuse suspects of having committed an offence at the start of the interrogation and ask for their response to such accusations.³ In response to this practice the new 'PEACE' model of interrogation, which arose

¹ Royal Commission on Criminal Procedure 1981.

² See further Hodgson and Kemp 2015, p. 131 and 142–143.

³ This was based on the 'Reid model' of interrogation which was developed in the US. See Moston *et al.* 1992 and McConville and Hodgson 1993.

out of a collaborative effort between the police and psychologists in England and Wales, was adopted by the police in the early 1990s.⁴

The assumption underlying the PEACE model is that a suspect who is relaxed, and with whom the interrogator has a rapport, is more likely to cooperate by responding to police questions. While the PEACE model was reported to have the desired effect on police interview styles in the 1990s,⁵ there has been very little research subsequently into police interrogations with juvenile suspects. The most recent study, conducted by Medford and others⁶ was based on interrogations undertaken in 1997. Subsequently in 2002 a performance target was introduced which required the police to increase the number of detections. This was intended to put the police under pressure to get suspects to admit to offences during interrogations so a higher volume of cases could be dealt with quickly. While the target had led to an increase in the number of detections, it also led to 'net-widening' with people, particularly juveniles, being given a criminal sanction for trivial offences and borderline criminal activity. Indeed, from 2003 to 2008 while the number of people convicted at court remained stable, the police use of out-of-court disposals increased by 135 per cent.⁷ It is important to examine, therefore, current styles of police interrogation when dealing with juveniles and the extent to which procedural safeguards are upheld.

The empirical findings from this study are drawn from focus groups held with police, lawyers, appropriate adults (hereafter: AAs) and juveniles, all located in the Midlands, and from analysis of 12 audio-recorded interrogations with juveniles.⁸ In the police focus group there were nine officers who were drawn from five different police stations. The focus group of lawyers comprised seven legal advisers working for three different firms, of which six were duty solicitors and one an accredited representative.⁹ The AA focus group involved ten people; six of whom were acting as AAs, two Youth Offending Team (hereafter: YOT) managers, a former YOT worker who was involved in the training of AAs and a coordinator of national AA schemes. These respondents were based in six different YOT areas. The focus group with juveniles included five juveniles who had experience of being interrogated by the police for

⁴ Milne and Bull 1999.

⁵ Milne and Bull 1999.

⁶ Medford *et al.* 2003.

⁷ The target was amended in 2008 to encourage the police to concentrate their efforts on bringing more serious offences to justice and in 2010 it was abandoned – see Padfield *et al.* 2012 and Kemp 2014.

⁸ A more detailed account of the methodology is set out in ch. 2.

⁹ Non-lawyers can provide police station legal advice if they have been accredited to do so (see Hodgson and Kemp 2015, p. 139).

various types of crime. These juveniles were mostly male repeat offenders between 16 and 18 years old. All participants were currently involved with the YOT on court orders.

The interrogations were also drawn from the Midlands area and included interrogations from three different police stations. In total 12 cases were selected which included a mix of juveniles with ages ranging from 13 to 17 years, different ethnic backgrounds and with some being of good character at the time of their arrest¹⁰ and others recidivists. Within the provided sample for selection, there was just one female suspect, one case with an interpreter and two where the interrogations were undertaken on a voluntary basis. All the interrogations examined involved cases where the juveniles were charged or summoned to court and the offences were denied. The sample encompassed different types of offences.

These focus groups and observations make up a snapshot of current practice, which enables us to examine the extent to which this can deviate from legal procedural safeguards. This also provides the opportunity to see how juveniles can be vulnerable in interrogations and to identify good practice and appropriate safeguards. It is not the aim to obtain a representative picture of practice in England and Wales but the composition of the focus group interviews and recorded interrogations is characterised by variety in order to reflect different practices. There are highlighted ambiguities and contradictions in the views of practitioners on how to deal with juvenile suspects, not only between practitioner groups but also within such groups. To some practitioners, for example, juveniles should be treated as a 'child', whereas others seem to think that regular offenders, or those who have committed a serious offence, should be treated first and foremost as a suspect. Thus conflict and ambivalence are embedded in the concept of the juvenile suspect.

This chapter begins with an overview of the interrogation practice starting with the first contact with the police, which is followed by several activities before and during the interrogation. The vulnerabilities of juveniles in relation to these activities are next examined, including differences related to their age, mental ability and other social and welfare factors and also in relation to the lack of legal assistance and long delays in the detaining of juveniles in custody. Finally, following consideration of safeguards and good practices, including the need for specialisation and training, there are some concluding comments.

¹⁰ The cases were drawn from those pleading not guilty at court and so they had not been convicted at the time the tapes were examined.

2. A LOOK AT THE PRACTICE

2.1. FIRST CONTACT

It was only in the focus group with juveniles that we were able to explore what happened when first coming into contact with the police. A couple of juveniles described similar experiences when arrested after having been stopped and searched in the street. They both complained of being ‘grabbed’ by the police and this made them try to pull away, at which point one said he was threatened with being arrested for ‘resisting arrest’. From the outset the two juveniles said that the police treated them as if they were ‘guilty’. In retaliation both admitted to ‘kicking off’ when in custody. This was because, as one explained, “*If we’re treated badly by the police then we behave badly.*” The recent experience of another juvenile was very different. He described the police coming to his home and being polite when they arrested him and took him down to the station.

2.2. POLICE PROCEEDINGS

When suspects are arrested they are taken into custody and handed over to the care of a custody officer who is then responsible for authorising their detention. The police said that the custody officer has to consider the ‘necessity’ of bringing them into custody, a test which had recently changed and now requires custody officers to be more challenging of the police when bringing suspects into custody.¹¹ The police felt that this change had led to fewer juveniles being arrested and more being dealt with by way of a Voluntary Interview. In cases where suspects’ detention is authorised the custody officers have to go through a set procedure. The police reported that this first involves opening up a new electronic custody record, which requires a number of mandatory fields to be completed on the computer. In the first section the custody officer asks suspects questions about their welfare and health.¹² It was also while being booked into custody that the police described suspects being given their legal rights, searched and then placed into a cell.¹³ It is from the time the suspect is booked into custody the police said the PACE clock begins and they have 24 hours in which to conduct their investigations.¹⁴

¹¹ This change was due to a revision of Code G of the PACE Codes of Practice in November 2012.

¹² Further details of this assessment are considered *infra* paragraph 2.7.

¹³ When being searched money and any other valuables, such as watches and mobile phones are removed for safekeeping. As a protection against suspects harming themselves, the police said that any belts, cords or shoelaces were also removed.

¹⁴ Which can be extended up to 36 hours on the authority of a superintendent.

2.3. INFORMATION ON RIGHTS

The juveniles said that when arrested the police have to caution them, tell them the reasons for the arrest and take them to the station where they are given their legal rights. It was at the beginning of the interrogation that the police confirmed suspects had to be cautioned again and asked if they understand what this means.

2.3.1. *Information about the right to legal assistance*

All the juveniles said they were advised by the police that they have the right to legal advice and they were not discouraged from having such advice. The police said it was the custody officer who first advises suspects of the right to legal assistance when booking them into custody. If an AA is not present at that stage, the officer has to go through their rights again in their presence. With long delays often between the juvenile being brought into custody and the interrogation most AAs said they first saw the juveniles just before the interrogation. When the custody officer asked the juvenile if they wanted legal assistance the AAs said that it was their policy to advise them to have a lawyer. In the Justice Hub, due to the close proximity of AAs to the custody suite, they said that they could be called down when juveniles were first brought into custody and given their legal rights. From the lawyers' perspective, concerns were raised that the police could sometimes try to deter suspects from having legal advice, particularly in juvenile cases where the parents were acting as the AA.

At the start of the interrogation the police are again required to advise suspects of their right to legal assistance. In nine out of the 12 interrogations examined where a lawyer was present, when commenting on this right the officers tended to remind the juveniles that they were free to speak to their lawyer privately at any time. Having declined a lawyer in the other three cases, the police advised the suspects of their right to legal advice.

2.3.1.1. Informing invited juveniles in Voluntary Interviews

Instead of arresting and detaining a suspect in custody the police can invite suspects to attend a Voluntary Interview. These can be held in different places, with one juvenile saying he was interrogated at home and another in the back of a police car. The police pointed out that those interrogated on a voluntary basis have a right to legal advice and it was their view that it was common for a lawyer to be involved. This was not the lawyers' perception, however, as they felt that legal safeguards in Voluntary Interviews were not always upheld. As one lawyer noted: "*We do attend Voluntary Interviews but there's a lot where we're not involved.*" Another lawyer pointed out that at satellite stations, where suspects

could be interviewed on a voluntary basis, there were no procedures to ensure that they have been given their legal rights. In addition, the lawyers complained about the police sometimes trying to deter suspects from having legal advice. In a room used for conducting Voluntary Interviews, for example, a lawyer said there was a poster stating that legal advice was available but at a cost. A couple of lawyers reported being told by clients who declined legal advice in a Voluntary Interview that the police advised them they would have to be taken into custody in order to arrange for a lawyer to attend.¹⁵

There was seen to be a misapprehension among the AAs about the status of Voluntary Interviews as most of them thought these were not dealing formally with a crime. Instead of an interrogation, a number of AAs said that these interviews were more about clarifying certain issues or used in cases where the suspect had been formally interrogated and this was a follow-up interview.¹⁶ Despite Voluntary Interviews having the same status as an interrogation, with the evidence being admissible in court, the AAs did not invoke their policy of requiring a lawyer to be involved. This was of concern to a YOT manager who felt that the police sometimes conducted a Voluntary Interview in cases where there was no evidence as a 'fishing expedition' to try and obtain further information about an offence. Another YOT manager questioned how voluntary these interviews were; particularly as suspects were told they would be arrested if they attempted to leave. In the two cases which involved a Voluntary Interview it is useful to consider the words used by the officers when discussing this issue. In one case the officer said: "You can leave but if you do you might be arrested and you would then be taken through to custody." In the other the juvenile was told: "You can leave this interview but if at any part I feel the need to arrest you I will do so and produce you before a custody sergeant for your rights and entitlements." The lawyers were concerned that increasingly the police use Voluntary Interviews instead of custodial interrogations and that the legal rights of suspects were being undermined.

2.3.2. *Information about the right to silence*

When cautioning suspects the police have to say: "You do not have to say anything. But it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence." The suspect is then asked if they understand what this means. In the 12 interrogations the police cautioned all the juveniles and asked if they

¹⁵ This is not correct as officers outside of custody can contact the Defence Solicitor Call-Centre in order to arrange for a publicly funded lawyer.

¹⁶ Worryingly, this reflected the perspective of the police, rather than the interests of the suspect.

understood what this meant. There were two cases where this was all that was said but otherwise the officers went through the caution again in their own words, breaking it down into three main elements. The officers explained the first part by saying that the juveniles could decide not to answer any of their questions or otherwise answer some or all of them. In some cases the officers asked the juveniles to say 'no comment' if exercising their right of silence as this was quicker than having to wait to see if a reply was forthcoming. In dealing with the second part of the caution, officers said that if the juvenile fails to mention something during the interview which they later rely on in court then the court could question whether they were telling the truth. The officers commented on the interrogation being audio-recorded as the third part of the caution, with a master sealed copy of the tape being made available to the court as evidence in the event of a trial.

While advising juveniles of their right to remain silent, there were four interrogations where the officers effectively undermined this safeguard by requiring the suspects to 'tell the truth'. In one case, for example, after explaining the meaning of the caution the officer stated: *"Do you agree to tell me the truth?"* to which the juvenile replied: *"Yes."* Similarly, in another case the officer said, *"The most important expectation is that you tell the truth. Do you agree to tell the truth?"* The juvenile replied, *"No comment."* In the other cases the two statements from the officers were as follows: *"I don't expect you to lie and you need to tell the truth"* and *"Your best choice here is to tell us the truth."* A lawyer was present in these four cases but they did not challenge the police when putting juveniles under pressure to 'tell the truth'. This is despite the related principle against self-incrimination and it seems contradictory for juveniles to be told, on the one hand, that they have the right to remain silent but, on the other, asked to tell the truth. This is likely to be particularly confusing for juveniles who do not have a lawyer. The way in which the officers checked that the juveniles understood the meaning of the caution is considered further below.

2.3.3. *Information about the right to have someone informed of detention*

The juveniles said that when brought into custody they were advised of their right to have someone informed of their detention. On one occasion a juvenile said he had asked his mother to be informed but the police delayed notifying her of his detention. He later complained that the police had searched his home and reflected that the police could have waited to tell his mother of his detention so she did not have the opportunity to remove any incriminating evidence beforehand.

2.3.4. Checking for understanding

The police commented on suspects frequently being given their legal rights in custody. One officer said, *“They are constantly told about the procedure, what’s going to happen, why they are here.”* Repeating to suspects their legal rights, however, does not necessarily mean that this helps them to understand their rights. The juveniles said that they were given their legal rights on a number of occasions and also given a leaflet. This leaflet was not considered to be particularly helpful. One juvenile said: *“I don’t read it because it’s shit.”* Despite frequently being given their legal rights there was some confusion among the juveniles about what these rights actually were. The following comments from three different juveniles help to illustrate this point:

“They say it so fast it goes straight over your head.”

“When they go through and read it out so quickly I don’t really understand what they’re on about.”

“I’ve understood it [my rights] at the time but I can’t think what they are.”

Some officers said that by routinely going through suspects’ legal rights there is a danger of a perfunctory approach being adopted with juveniles failing to understand what their rights actually mean in practice. For other officers the priority in reading out to suspects their legal rights was to adhere to PACE requirements so that any evidence obtained during the interrogation would be admissible in court.¹⁷

2.3.4.1. Right to legal advice

There were three interrogations examined where a lawyer was not involved and the police checked with the juveniles that they understood their right to legal advice. In two cases the police enquired as to why the juvenile did not want legal advice. The reply in one case was: *“I don’t need one. I haven’t done anything wrong.”* This juvenile was then advised by the officer that he had the right to speak to a lawyer at any time during the interrogation, either over the phone or in person. In the other case the juvenile was a 14 year old and he had been arrested on suspicion of rape. With legal advice having been declined the officer

¹⁷ This approach was observed in the four jurisdictions in the *Inside Police Custody* study: see Blackstock *et al.* 2014, Chapter 5, especially p. 243–255. Research has shown that suspects can become confused about their legal rights, particularly if read out quickly and/or unintelligibly by the police. This could be either due to the routine way in which custody officers regularly read out to suspects their legal rights or as a ploy designed to discourage them from having legal advice: see Kemp 2012, p. 28–33.

was at pains to check that the juvenile understood his rights, pointing out that legal advice was free and that the lawyer would be independent of the police. When the juvenile was asked if there was any reason why he did not want legal advice he simply replied: “No.” In the third case, which involved a Voluntary Interview, the officer did not ask the juvenile why he had declined legal advice but he did say that the interview could be stopped at any time if he changed his mind and wanted a lawyer.

2.3.4.2. Right to remain silent and ‘adverse inferences’

In some of the interrogations examined the officers asked the juveniles questions to check their understanding of the caution. The most common question was for the officers to ask the juveniles if they had to reply to all their questions. While most juveniles replied correctly one said he did have to reply to all questions but the officer corrected him saying this was not the case. Some officers also asked juveniles questions to check they understood the meaning of ‘adverse inferences’. In one case, for example, the officer asked the juvenile what would happen if he did not comment on something during the interrogation which he later mentioned in court. He replied: *“It will look like I’ve made up a story.”* More generally, the officers would use their own form of words when commenting on ‘adverse inferences’. In some cases the explanation given by the police suggested that a court would always draw adverse inferences if the juvenile failed to tell them something they then said at court. In one case, for example, the officer said:

“You’ll have seen on TV people being silent or making ‘no comment’. If it goes to court though and you give answers not said earlier, or you give a different account, or raise a defence, which could have been investigated, then questions will be raised. Why wait until court? They could draw adverse inferences, which means you won’t be believed and this can go against you.”

There were cases where officers were seen to take the opportunity of checking with juveniles their understanding of the caution as a way of putting them under pressure to answer their questions. This was implicit in one case when the juvenile said he did not understand the caution and in response the officer said: *“You don’t have to speak but it helps if you do.”*

2.4. LEGAL ASSISTANCE

The AAs in the focus group said that they were trained to require a lawyer to be involved in the interrogation of juvenile suspects and not one of them had sat in on a custodial interrogation without a lawyer being present. However, in the rare cases where a juvenile is adamant they do not want a lawyer involved a YOT

manager said they would arrange for an AA to be present in order to provide support. This effectively means that the decision about legal assistance is made by the AA, although the lawyers pointed out that in PACE this is a decision for the suspect. Accordingly, the lawyers said they could not represent a juvenile if the AA had requested legal advice against their wishes. The police said they were well aware of the policy of AA schemes to require a lawyer and if a juvenile declined legal advice when first brought into custody, but an AA from a local scheme was involved, they would anticipate a change of mind and arrange for a lawyer to attend in time for the interrogation.

It is not known to what extent parents and other carers/guardians acting as the AA might encourage juveniles to have legal advice but the lawyers raised concerns that they did not always appreciate the lawyer's role in the interrogation. If there was an inexperienced juvenile with their parent acting as the AA, for example, one lawyer said: *"They often won't bother with a lawyer because the police can give them the impression that if they ask for legal advice it shows they don't trust the police."* The lawyers were also critical of the police for sometimes putting parents under pressure to decline legal advice, particularly by saying it would cause a delay.¹⁸

All but one of the juveniles said they would always have a lawyer when arrested by the police, and generally a family member or friend would act as the AA. One juvenile said that his decision about legal advice could depend on a number of factors. For minor offences, for example, he said he tended not to bother but he would do so if arrested for a serious offence. Whether he was guilty or not was said to be another factor influencing his decision about legal advice. He said, *"If you're going [to plead] guilty then there's really no point in having one [a lawyer]."*

Having requested a lawyer, it is not known to what extent juveniles rely on the duty solicitor, or use their own nominated lawyer. When first arrested, the juveniles did not know any lawyers and so they used the duty solicitor. However, they were concerned over the lack of independence of duty solicitors from the police. As one juvenile put it: *"The duty solicitor is shit. It's like they are working with the police."*¹⁹ Subsequently, when having their own legal adviser, this was described by one juvenile as, 'a proper lawyer'.

¹⁸ Research has identified the police in some stations using the threat of delays as a way of discouraging a suspect to have a lawyer – see Kemp 2013, p. 192.

¹⁹ Similar concerns were raised in a survey of over 1,000 people in the criminal justice system. Indeed, almost a quarter of respondents in police stations and in court said that they thought the duty solicitor was employed directly by the police and just over one-third were not sure if this was the case or not (Kemp 2010, p. 89).

2.4.1. *Pre-interview disclosure and lawyer's advice*

PACE requires the police to provide disclosure to suspects, which sets out details of the offence and why the suspect is being interrogated. The police pointed out that they were not required to disclose details which might prejudice the investigation.²⁰ In addition, while required by PACE, the police said that they would not give an unrepresented suspect any disclosure. For the lawyers, disclosure was reported to usually consist of a copy of the front sheet of their client's custody record and a note of their detention (which includes the reason for their arrest). It was then said to be a matter for individual officers to decide whether more information was disclosed. In relation to shoplifting cases, for example, an officer said: *"If there's CCTV evidence we might show this before the interview as it can encourage them to engage."* Those dealing with mainly minor offences commented that they were more likely to disclose evidence when dealing with juveniles as this could encourage them to talk in the interrogation. In relation to serious offences, however, the police view, as expressed by this officer was: *"It's not good practice to give all your evidence away, particularly as the lawyer can use it in constructing an alibi or a defence."* The detectives in the focus group said that for more serious offences they would have two or more interrogations and they would give the lawyers 'staged disclosure', which means confronting them with 'bits of evidence' as the investigation progressed.

The lawyers complained about receiving limited disclosure from the police in relation to all offences. These included, as one put it: *"Nonsense crimes such as nicking a Mars bar."* The disclosure received was described by the lawyers as generally comprising one typed paragraph on which was said to be little more than: *"He's been arrested on intelligence."* When asking for more information, the lawyers were generally told that the police first wanted their client's version of events. From the lawyers' perspective, police policy in relation to disclosure was the same whether dealing with an adult or a juvenile.

2.4.2. *Consultation*

When dealing with juveniles in an interrogation the lawyers said that after first meeting with the police, they would have a private consultation with their client. The consultation with juveniles tended to take longer than with adults because, the lawyers explained, they were more likely to be upset and distressed, particularly if brought into custody for the first time. More time was also said to be needed to reassure juveniles and to go through their case in detail, using simple language and explaining what was happening. The lawyers also commented on the need to take time with juveniles in order to gain their trust

²⁰ See PACE Code of Practice C, para. 11.1A.

and to get them talking about the alleged offence and other factors which may be relevant, such as their schooling and home life. Without putting in this effort, the lawyers said that juveniles could be withdrawn and monosyllabic in their responses.

During the consultation the lawyers explained that their advice would generally depend on their clients' instructions as well as on the strength of the evidence disclosed by the police. If the police failed to disclose evidence, or at least sufficient to show that they have a case, the lawyers would generally advise their clients to make 'no comment'. This was because, a lawyer explained, it was the responsibility of the prosecution to construct a case and sometimes it was in their client's best interests to exercise their right of silence, particularly if this could avoid incriminating themselves. As this lawyer put it: "*We sometimes tell clients not to speak in the interview so they don't stitch themselves up.*" On the other hand, when dealing with serious offences the lawyers pointed out that it could sometimes be helpful to advise clients to give an early account of what happened, particularly if this could avoid the case being sent up to the Crown Court.

The lawyers stressed that their advice was often dependent on the police engaging with them at the investigative stage, which did not always happen. There were also noted to be differences between police stations. At their local station the lawyers said the police were reluctant to give them any meaningful disclosure, which often meant that they would advise their clients to remain silent. One lawyer outlined the problem when saying:

"A lot of officers don't seem to grasp that if there's a strong case evidentially, and we are told this from day one, then the likelihood is that we would be advising our clients to make admissions."

In a neighbouring area the lawyers reported that the police provided them with more disclosure, which often meant they could make progress in cases.

The police acknowledged that it was frustrating for them if suspects did not reply to questions during the interrogation, and some officers felt that there were legal advisers who always advised their clients to make 'no comment'. As this officer put it: "*As soon as you hear a solicitor's name you can almost guarantee you will get a 'no comment' interview.*" The lawyers did not accept that this was their practice, although one of them did say that at his previous firm he was required to always advise clients to say nothing in the interrogation.²¹

²¹ See Kemp 2013, p. 52–56 for a discussion of lawyers advising 'no comment' responses in interrogations.

There were officers who accepted that lawyers have a duty towards their client and that this includes protecting them from self-incrimination. As this officer explained:

“You tend to get them going ‘no comment’ when there is a serious offence involved, or they are a prolific offender. The solicitor doesn’t want their client to stitch themselves up. They might have done 10 to 20 offences and we only have evidence for one and so a solicitor tells them not to say anything.”

For the police, ‘no comment’ replies were also said to be frustrating because this was contrary to their main aim of getting a result. This was the comment from one officer: *“We want the truth at the end of the day rather than a technical ‘no comment’ which we can use against them.”*

Sometimes the juveniles said they were advised by their lawyer to make ‘no comment’ but this was not always the case; one saying that he had never been given this advice. Having been advised to exercise their right of silence, three juveniles gave reasons for doing so. Two of them said that their lawyer advised there was no evidence against them. The other juvenile had given a full explanation of what had happened to the police in the first interrogation and when he was called back for a second time he was advised to say nothing because his lawyer told him: *“You don’t want to give the police the opportunity to trip you up.”*

With the consultation between the lawyer and their client being confidential and subject to ‘legal privilege’, the lawyers would not allow the AA to be present because they could repeat to others what had been said in the consultation.²² One AA reported that he was only present in the consultation if the juvenile was particularly upset and he was invited to do so by the lawyer. Another AA said he refused to be present during these private consultations because he was aware that if certain matters arose, such as child protection issues, he would be under a duty to report what had been said.

The juveniles found the consultation with their lawyer helpful, particularly as it meant they generally had more information about the offence and what was happening. When asked about their lawyer in the consultation, for example, one said: *“They explain everything to you and break it down so you know what’s going on.”* It was also pointed out by the juveniles that it was helpful for their lawyer

²² The concept of ‘legal privilege’ means that lawyers are under a duty to keep confidential conversations held with their clients but this does not extend to third parties involved in the conversations.

to have a discussion with the police as this could help to identify what questions might arise in the interrogation.

2.4.3. Legal assistance during interrogation

The lawyers considered it important for them to be present during the interrogation and available to assist the juvenile. While their priority was to provide legal advice they also wanted to make sure that the interrogation was conducted fairly and the juveniles understood what was happening. In summarising their role a lawyer said:

“We need to make sure it’s done properly. The police can use all sorts of tricks to try and get them [the juveniles] talking. They will use repetitive questioning, give their opinions and use misleading propositions to try and get a response. We can interject if the questions aren’t appropriate.”

However, the lawyers also pointed out that there were occasions where they would not intervene if the police were using undue pressure in order to get a confession. As one lawyer put it: *“Sometimes it’s better to sit back and let the police dig themselves into a hole,”* pointing out that the admissibility of the evidence could later be challenged in court.²³

While the police acknowledged that the role of the lawyer was to look after their client, it was also pointed out that this was *their* interrogation. As one officer put it: *“We have to control the interview and not let the solicitor take over.”* It was commented on by the police that some lawyers could try to deflect attention away from their client by intervening inappropriately. In seeking to manage such interventions one officer said he would take a break during the interrogation. Another officer reported that if the lawyer tried to prevent him from asking certain questions he would reply: *“It’s my interview and I can ask what I want.”*

2.4.3.1. Lawyer interventions

Out of the 12 interrogations observed there were nine which involved lawyers and in all but one of those cases the lawyer made an intervention during the interrogation. Set out in Table 1 are the types of intervention.

²³ This line of reasoning was also observed by lawyers in England and Wales in Blackstock *et al.* 2014, but given that it was often someone different representing the client in court, and that most defendants ultimately plead guilty, it seems likely that these breaches would simply go unchallenged.

Table 1. Interventions by lawyers

Intervention	Yes (%)	No (%)	Total (%)
Lawyer makes a comment to the police	4	5	9
Lawyer provides additional information	2	7	9
Lawyer advises juvenile to be silent	0	9	9
Lawyer advises juvenile (other advice)	2	7	9
Lawyer explains something to the juvenile	0	9	9
Lawyer comments on written statement	N/A	N/A	N/A
Lawyer asks/requires a consultation	1	8	9

Four cases were observed where the lawyers intervened because the police were putting their juvenile clients under pressure either to respond to questions or to make an admission. The reasons for these interventions are examined further below. There were also occasions where the lawyers would intervene in order to provide the police with information and/or to help clarify questions put to the suspect. In the case where an interpreter was involved, for example, the officer started the questioning by asking the juvenile: *“You were arrested yesterday for being concerned in the supply of a controlled drug. Did you commit this offence?”* Through the interpreter, the suspect’s response was: *“Yes, I was arrested at the house yesterday.”* As it could be inferred from this reply that the juvenile was admitting the offence the lawyer asked that the question was rephrased. The officer obliged and the suspect responded saying that he was arrested at the house but that he was not involved in the supply of cannabis.

In a couple of cases the lawyers intervened in order to advise their client. In the first case the police were putting the juvenile under pressure to say whether or not he had assaulted his sister. The police were not satisfied with the juvenile’s response that he might have caught her during a scuffle and putting him under pressure he later said that he might have hit her but he was not sure. At this point the lawyer intervened saying: *“Don’t guess. If you’re not sure what happened then you should say so.”* In the second case the juvenile had been reluctant to name his co-accused as the person who was responsible for causing criminal damage to a house. After the police read out the victim’s statement the lawyer advised his client to tell the police that it was his co-accused who had caused the damage.

2.4.3.2. Juveniles’ experiences with lawyers

The juveniles commented on their lawyers being helpful in the interrogation if the police were trying to ‘twist their words’ or ‘trip them up’. On one occasion

a juvenile declined legal advice but later changed his mind. He said: “*They [the police] started to say things which weren’t true and tried to mix up my words.*” While lawyers can intervene in order to protect juveniles during interrogations, it should be noted that the majority of suspects do not have legal advice.²⁴

While the juveniles were complementary about the support provided by lawyers in the police station, they were sceptical about their independence, particularly when in court. When asked who was most trusted in the system, for example, the juveniles replied probation officers and YOT workers. In relation to lawyers one juvenile said: “*You see them in court going up to the judges and making deals. They’re corrupt.*” Another one complained about his lawyer at court saying: “*He was too cosy with the judge and tried to make me plead guilty to everything.*” When considering further this apparent lack of trust, most of the juveniles pointed out that at least they could speak openly and honestly to their lawyer. This was because, the juveniles recognised, their lawyer was not allowed to repeat anything said to them during the private consultation.

2.5. ASSISTANCE BY THE APPROPRIATE ADULT

There was a difference of opinion expressed among the AAs as to their role within the interrogation. A volunteer AA formally described the role as being:

“To protect the well-being of the vulnerable person and also the police by fulfilling our obligation to PACE by having someone who is independent and can keep our eye on the process.”

This was to include making sure that juveniles understood what was happening. The police also commented on the AA having a dual role. For instance, this officer said: “*They are there to protect the young person and us too.*” Some AAs said they needed to act as a ‘referee’ between the juvenile and the police, in order to see ‘fair play’. Accordingly, as one AA put it: “*We should be neutral and make sure that everything is done properly and fairly.*” Other AAs, particularly those in a YOT, took exception to this mediator role, pointing out that there was not a ‘level playing field’ between the police and the juvenile suspect. For that reason they considered themselves to be firmly on the side of the juvenile. Set out in Table 2 is the relationship of the AA to the suspect in the 12 interrogations examined.

²⁴ In a recent study 45 per cent of suspects requested legal advice (with 35 per cent receiving such advice) but surprisingly, children aged 10 to 13 years were identified as being the least likely to request legal advice at 39 per cent (Kemp *et al.* 2011).

Table 2. Details of the AAs involved in the 12 interrogations

Case	Age	Type of offence	AA
1	15	Burglary	Mother
2	16	Assault	Father
3	17	Robbery	Mother
4	16	Criminal damage	Mother
5	16	Theft of vehicle	Mother
6	14	Robbery	Mother
7	13	Assault with intent to rob	Mother
8	14	Rape	Father
9	17	Burglary	YOT worker
10	16	Supply class B drugs	Volunteer
11	16	Assault	Mother
12	16	Assault	Father

While it was predominantly parents involved as the AA in the 12 interrogations, only YOT or volunteer AAs who regularly dealt with juveniles were included in this study.

Within the AA schemes there were different times in which AAs were available. For the YOT AAs, including those at the Justice Hub, their working hours were 09:00 to 17:30 hours from Monday to Friday. Outside of those hours the AA services were picked up by the emergency duty team, which effectively meant that YOTs provided a 24-hour service. The voluntary AAs described their service as having longer hours, from 06:00 to 22:00 hours, seven days a week but no cover was available outside of those hours. It was a major benefit to YOT AAs that they had access to other YOT workers and also to social services and mental health teams, which the volunteer AAs, on the other hand, had not. In their view, this was an important gap in provision which has consequences for undermining the safeguards of juveniles. Similarly, in another area, the lawyers pointed out that AA services were provided by volunteers and this meant that rarely were YOT and social services involved in juvenile cases in the police station.

Technically anyone over the age of 18 can act as the juvenile suspect's AA, although the AAs pointed out that the police can challenge a juvenile's choice if the AA was considered to be 'inappropriate'. With no routine screening to check their suitability, the AAs said that the police only tended to reject someone as an AA if they were a prolific offender or heavily dependent on alcohol or drugs. The lawyers argued that there should be a screening process for AAs which checked their understanding of the role and helped to determine their suitability to act as the AA. In some cases, the lawyers complained that the AAs were themselves

vulnerable and, if they were arrested, they too would require the involvement of an AA.²⁵

It is not the role of AAs to provide legal advice and this is why the AAs said their policy was always to involve a lawyer. With family and friends mainly taking on this role, however, the lawyers were concerned that the legal rights of juveniles could be undermined. This was because, as one lawyer explained: *“Parents often tell their children not to bother with a solicitor as they just want to get on with it and tell the police the truth.”*

2.5.1. *Appropriate adults interventions during interrogation*

There were six cases where the AAs intervened during the interrogation and in three cases for different reasons. Shown in Table 3 are the types of interventions.

Table 3. Interventions by AAs

Intervention	Yes (%)	No (%)	Total (%)
Adult makes a comment to the police	3	9	12
Adult provides additional information	2	10	12
Adult makes a comment to the lawyer	1	11	12
Adult advises juvenile	1	11	12
Adult criticises the police	2	10	12
Adult comments on written statement	N/A	N/A	N/A

In all 12 interrogations the AAs were advised by the police that their role was to ‘help facilitate communication and understanding’, but only in half were they also advised that they were there to make sure the interrogation was conducted ‘fairly and properly’. There were two cases where the AAs intervention was to challenge the police for not acting ‘fairly or properly’, which are considered below.

There were some cases where the police asked the AAs not to answer questions on the suspect’s behalf. While this request was reasonable in most cases, there were occasions where the police took the opportunity to restrict the AA from intervening. In one case, for example, the officer said to the AA: *“Your role is to facilitate communication and not to answer questions or talk to your son. If you do we will stop the interview and get another AA.”* There were cases where the officers asked the AAs not to answer questions put to the juvenile but when they did so

²⁵ Under PACE the police are required to appoint an AA for vulnerable adults (see Hodgson and Kemp 2015, p. 140).

the officers were tolerant of these interventions – mainly because the information was helpful to the interrogation. Indeed, in a couple of cases the police responded by asking the AA some questions. In one case, for example, the juvenile had been arrested for an offence of burglary and was making ‘no comment’ replies. At one point the AA, the juvenile’s mother, asked the police questions about the others involved in the offence and the police took this opportunity to ask her questions to find out more information about the co-accused. There were also cases where the police put juveniles under pressure to respond to their questions but there was no intervention from either the AA or the lawyer involved.

2.5.2. *Juveniles’ experiences with appropriate adults*

The juveniles in the focus group said they would generally have their parents acting as the AA and all but one of them would have a lawyer. When asked, the juveniles were not particularly complementary about the role of the AA in the interrogation. One juvenile said: *“They don’t really do anything do they? If there’s a problem they just sit there and it’s the solicitor who picks it up.”* This was the comment from another juvenile: *“I can’t really see the point of an AA as they just make the interview room more crowded.”* Nevertheless, the juveniles did accept that the AA was there to give them moral support and help them understand what was happening.

2.6. THE ROLE OF THE INTERPRETER DURING THE CONSULTATION AND INTERROGATION

There was just one case in the interrogations examined which involved an interpreter. The juvenile was Vietnamese and he had been arrested on suspicion of supplying cannabis, a Class B drug. As an interpreter was involved the police had to ask each question slowly and wait for both the question and response to be translated before moving on to the next one. In the focus group the lawyers raised concerns that while it was necessary to have an interpreter involved in the private consultation with their client they were not required to keep this information confidential. As the interpreter could later be required to assist the police the lawyers complained that they could repeat things said in the consultation to the police.

2.7. ASSESSMENT

There is a requirement for custody officers to conduct an assessment of suspects when they are booked into custody. The police said that no further assessment was required prior to the interrogation. In a Voluntary Interview the police

confirmed that no assessment of suspects was required. The way in which suspects are assessed is next explored.

2.7.1. Assessment of mental state and intoxication

The police reported that the list of questions asked by custody officers during the assessment were the same irrespective of the age of the suspect. A lawyer said this meant at the age of ten years a juvenile could be asked if they were addicted to alcohol or drugs. A girl of that age was asked if there was any chance she could be pregnant. The juveniles confirmed they were asked a lot of questions by the custody officer, including how they were feeling, whether they had any suicidal thoughts or felt like self-harming or had self-harmed in the past. A criticism made by the AAs was that the police do not deal sufficiently with the mental health of suspects when conducting the assessment. In particular, it was pointed out that if juveniles were 'kicking off' when brought into custody they could be placed in a cell and any mental health problems could go unnoticed at that stage by the custody officer. The AAs in the Justice Hub said this was one of the reasons why the police could call them down to check when juveniles were first brought into custody. The other AAs commented that it was not feasible for them to attend at the station when juveniles were first arrested because there were often long delays before the police were then ready to conduct the interrogation.

A police officer remarked on the electronic custody records as being helpful in highlighting if a suspect has a history of mental health problems. On opening up a new record, for instance, he said that this would 'flag up' whether any problems with the individual had been noted in the past. If concerns were raised it was pointed out that the custody officer had to decide whether a medical assessment was required. If so, an officer explained that the police doctor (known as the 'FME' (forensic medical examiner)) would carry out an initial assessment and, if required, arrange for a further examination from a mental health practitioner. The lawyers said that while the medical assessment used to be carried out by the FME, increasingly it was being conducted by a nurse.

Having recently been trained on issues relating to autism a couple of YOT AAs said that they had been trying to encourage the police to include this factor in their assessment. It seems that this strategy has been successful, at least in one station, as a police officer said the custody officers were required to ask juveniles questions about autism and 'attention deficit hyperactivity disorder' (ADHD).²⁶

²⁶ Following a review of mental health problems and learning disability in the criminal justice system there is being set up liaison and diversion schemes which involve mental health practitioners being based in some police stations (see further NHS England 2014).

In commenting on this an officer said: *“They will look on the computer and see if there’s a mark on autism. You are constantly assessing them.”* However, he also went on to say: *“It helps us to judge them too, even though we probably shouldn’t.”* The lawyers were critical of the police assessment saying it failed to deal with the capacity of juveniles to understand what was happening and respond to questions put to them in the interrogation. Criticisms of this initial assessment also came from the police. One officer was critical that it was based on a subjective test with no matrix available to assist custody officers when deciding on what action was required.

It was the view of the police that no assessment was required prior to the interrogation, unless issues over a suspect’s mental health had been raised. The lawyers pointed out, however, that the custody officer and the officer in the case are required to assess whether the suspect is fit enough to be interviewed and to involve a healthcare professional in the assessment if required.²⁷ It was reported that such assessments rarely happened and instead, as this lawyer described: *“The officer in the case says to the custody officer ‘I’m ready for the interview now’ and to receive the reply ‘I’ll get him out of his cell’. There isn’t an assessment before the interview.”* The lawyers and AAs said that if they had any concerns over a suspect’s ability to engage in the interrogation they would raise this with the custody officer. There was a difference of opinion among the lawyers as to what action was then required to be taken by the police. One lawyer thought that PACE only required the police to make a note of the lawyer’s concern on the custody record. Another was of the opinion that following representations a formal assessment of the suspect’s mental health was required. A third lawyer said that they were required to bring in an AA, a mandatory protection for juveniles in any event.

2.8. INTERROGATION

2.8.1. Characteristics

2.8.1.1. Timing and duration of interrogations

The type of offence involved in the 12 interrogations together with the time of arrest, detention, interrogation, the duration of the interrogation and the overall length of time in custody is shown in Table 4.

²⁷ PACE Code of Practice C, para. 12.3.

Table 4. Timing and duration of interrogations

Case	Type of offence	Time of arrest	Time at police station	Time of interview	Duration of interview (minutes)	Length of time in custody
1	Burglary	18:10	18:40	23:00	20	23:40
2	Assault	21:55	22:00	15:30	20	23:00
3	Robbery	20:50	21:16	13:19	56	19:30
4	Criminal damage	22:50	23:25	10:00	14	12:00
5	Theft of vehicle	20:50	21:40	14:30	14	19:40
6	Robbery	18:45	19:22	20:17	27	2:15
7	Assault with intent to rob	19:54	20:19	13:05	20	18:10
8	Rape	18:30	19:00	19:44	40	1:45
9	Burglary	10:30	10:50	19:05	25	22:20*
10	Supply class B drugs	16:50	18:10	20:30	30	16:20*
11	Assault	N/A	N/A	17:10	30	N/A
12	Assault	N/A	N/A	16:00	24	N/A

* These two juvenile suspects were remanded in police custody.

The duration of the interrogations studied here varied from 14 to 56 minutes, with an average of 26 minutes. However, in all these cases the juveniles had been charged and the offences denied at court. If the sample had included cases where the offences were admitted the average duration would have been shorter. One officer pointed out that the length of interrogations could vary enormously, depending on the seriousness of the offence and whether or not there was a confession. There were concerns raised by AAs over the length of time taken in some interviews, particularly as juveniles tend to have a short attention span. The police also commented on this saying that sometimes 15 minutes of questioning was too long for juveniles. In long interviews the police said regular breaks are needed but the lawyers and juveniles complained that this seldom happened. One lawyer pointed out that it was common practice for breaks in police interviews involving juvenile victims and witnesses and there needed to be a similar requirement for juvenile suspects.

In the ten cases where the juveniles had been arrested, there were nine where they were arrested during the early evening or late at night. It was evidently due to the time of their arrest that some of them were held in custody overnight. Having been arrested the night before in four cases, the juveniles were not interrogated until the afternoon of the following day. There were two cases where the juveniles were arrested during the early evening, interrogated and released from custody within a couple of hours. It seems that in these two cases the police had taken statements and were ready to go straight into the interrogation. In three cases there was a spontaneous arrest and delays are to be expected while the police gather evidence prior to the interrogation. However, in another three

cases the evidence had been gathered, including statements from victims and witnesses, but there were still long delays before the interrogation.²⁸

The lawyers and AAs raised concerns that there could be long delays in cases involving juveniles. They were critical of the police for failing to identify alternative ways of dealing with them which could avoid having to spend a night in the cells. In one case, for example, a 15 year old juvenile had been arrested at 18:10 hours and it was almost five hours later before he was interrogated. It is not known why he was not released following the interrogation, particularly as he was of good character and could presumably have been taken home as his mother was acting as the AA. Instead he was held in custody overnight and detained for almost 24 hours. It was an incident in the family home which brought another juvenile into custody for 23 hours. He was also of good character and having been arrested at 21:55 hours he was detained overnight and interrogated at 15:30 the next day.

The lawyers mentioned other possible causes of delays. These included the effects of budget cuts with fewer police officers being available to conduct the interrogations. It was also pointed out that the ‘handover’ of cases at the end of a shift from one officer to another could cause up to a two-hour delay. It was of concern to the lawyers that the police had the power to lock up juveniles for a long time, particularly as long delays might put them under pressure to say what the police wanted to hear. As this lawyer put it: *“The police attitude seems to be to teach them a lesson by holding on to them for such a long time. They know that by the end of it all they’ll want to do is get out.”* Perhaps not surprisingly, the juveniles perceived their time in custody as a punishment. One of them said: *“It’s not meant to be nice. It does what it’s there for ... You go in, get your punishment and come out.”*

While detaining juveniles for up to 24-hours, PACE requires a continuous period of rest, of at least eight hours, free from questioning and usually taken at night time. The lawyers were critical of the police for ignoring this requirement and conducting interrogations late at night. As this lawyer put it: *“It does happen but it’s wrong and it needs sorting.”* In the past, when advised that a juvenile had been arrested during the night, the lawyers would suggest to the police that they put him to bed and deal with it in the morning. However, it was accepted by the lawyers that by ‘bedding down’ juveniles for the night this meant they could be held in custody for long periods of time.²⁹ On the other hand, working regularly

²⁸ In two other cases the juveniles had been charged and they were held in police custody prior to being taken to the next available court.

²⁹ Concerns have been raised over juveniles being held unnecessarily in cells overnight (see Hodgson and Kemp 2015, p. 142).

in a large custody suite, the lawyers were critical of the police for operating as if in a '24-hour society', which included conducting interrogations of juveniles at night time. Without consideration of the vulnerabilities of juveniles, a lawyer complained that he heard an officer say: *"If it's a night time offence and he's out burgling at midnight then he can be interviewed during the night."*

It was the experience of three juveniles to be interrogated in the early hours of the morning. After having been detained overnight, one said that he was taken out of his cell to be interrogated at 03:00 hours. In his words he said: *"I was feeling like shit and didn't know what was happening."* However, he did accept that he had started to 'come round' by the start of the interrogation. Another juvenile said that when he was being dealt with for a serious offence the police interrogated him at night time and he was released from custody at 04:00 hours. Yet another one said that he was intoxicated when brought to the station at 20:00 and placed in a cell to sober up. When he was woken up and taken to an interview room four hours later he was still 'half-cut' and expected to be taken back to his cell. To his surprise, the police wanted to proceed and he agreed to be interrogated because, as he put it: *"I just wanted to get out of there."*

2.8.1.2. Interrogators

When interrogating juveniles the police said it was 'best practice' to have two police officers involved: one to ask questions and the other to 'mop up'. However, with budget cuts they said that those dealing with minor offences increasingly had to interview juveniles on their own. The lawyers said there were always two CID officers involved when dealing with serious offences. There were five cases where the interrogation was conducted by a single officer, three involving a male and two a female officer. One of the other interrogations comprised two female officers, another had a male and female officer and the others involved two male officers.

According to the AAs, police interrogation techniques were said to have improved over recent years. There was noted to have been a change from the 'old school' type of interrogator who tended to take a harder line with juveniles to officers now adopting a softer line. A YOT manager said that due to modern styles of police interrogations it had become rare that AAs needed to intervene. However, with recent budget cuts they were noticing differences with less experienced officers being involved. The lawyers and the AAs felt that this was having a negative impact on the quality of the interrogations.

2.8.1.3. Interrogation setup and interruptions

The lawyers described the police in the interrogation sitting on one side of the desk and the juvenile, AA and themselves sitting on the other side. There were

interruptions in three out of the 12 interrogations examined. In two cases the tapes stopped playing at the start of the interview. In the first case the officer was able to re-start the tape and in the second they had to move into another interview room. In the third case the interrogation was interrupted while the lawyer had a private consultation with his client. When re-starting the tapes in these three cases, the police asked the juveniles to confirm that everyone was still present and that they had not been asked any questions by the police between the two recordings.

2.8.2. *Interrogation model*

2.8.2.1. Informing the juvenile and the type of information

Set out in Table 5 is a list of information which can be provided to juveniles at the start of an interrogation. When listening to the recorded interrogations there were some issues which were only mentioned briefly by the police, accordingly a distinction has been made as to whether the issue was mentioned in detail or only in passing.

Table 5. Information conveyed at the start of the interrogations

Information on:	Yes in detail	Yes, briefly	No	Total
Reason for interrogation	2	10	0	12
Goal of the interrogation	2	10	0	12
Being a suspect	2	10	0	12
Proceedings	0	0	12	12
Recording	12	0	0	12
Role of the lawyer	6	5	1	12
Role of the AA	12	0	0	12
Role of the interpreter	1	0	11	12
Interrogators	2	10	0	12
The right to legal assistance	12	0	0	12
The right to remain silent	12	0	0	12
The right not to incriminate oneself	0	0	12	12

2.8.2.2. The way information is conveyed

When considering the information provided to suspects at the beginning of the interrogation it is helpful to describe what generally happens once the recording begins. Typically, the police start by commenting on the role of the AA and then the lawyer and the juvenile's entitlement to legal advice. The police then read out the caution and provide an explanation as to its meaning. With quite a lot

of information being imparted at the start of the interrogation, one officer said: *"This can all take time. You can be seven to ten minutes just explaining their rights and still wonder whether they understand."* After having set out the legal rights the officers generally introduce themselves and explain that they will be asking the juvenile questions about the offence for which they are under arrest. It is only in this limited way that the police were heard to provide information on the reason and goal of the interrogation, as well as informing the juvenile that they were a suspect.

There were no cases examined where the juveniles were given information on proceedings at the start of the interrogation but two cases where this information was provided at the end. In one case, which involved a Voluntary Interview, the officer advised the juvenile that there would be further investigations following which he could be summonsed. In the other case the police told the juvenile that there would be an identity parade (hereafter: ID parade). While information on proceedings was not included on the tape recording it could be that the police comment on this when the recording ends. The way in which the police commented on legal advice and the right of silence was considered above. There were no interrogations where the juvenile was advised about the right not to incriminate themselves.

2.8.2.3. Approach

The police commented on using the 'PEACE' model of interrogation.³⁰ All but one of the officers had been trained using this PEACE model, which an officer described as: *"A non-accusatory, information-gathering approach to investigative interviewing."* Seven officers had also been trained in 'achieving best evidence' (hereafter: ABE), which is concerned with interviewing juvenile victims and witnesses.³¹ Apart from the mandatory requirement for an AA to be involved in juvenile cases, the police said there tended to be no difference in the way they interrogated juveniles based on their age. However, when commenting on the approaches adopted during the interrogation the police did sometimes draw a distinction depending on the seriousness of the offence. One officer, who mainly dealt with minor matters said: *"My style is quite chatty and informal. I try to put them at their ease."* Others said that their priority was to 'get a result', particularly when dealing with serious offences. The lawyers' view was that there was no difference in how officers dealt with cases when dealing with serious

³⁰ The acronyms stand for 'Preparation and Planning, Engage and Explain, Account and Clarification, Closure, and Evaluation'. The model takes into account the vulnerabilities of juveniles with a view to minimising the risk of false confessions. See Shawyer *et al.* 2009.

³¹ An important element of which is to encourage victims and witnesses to 'tell the truth' (Ministry of Justice 2011).

offences. As one lawyer put it: *“They take the interview with juveniles the same way as an adult when dealing with a serious offence.”*

When commenting on the police style of questioning a couple of juveniles said that they usually had two officers, one playing the ‘good cop’ and the other the ‘bad cop’. Another said that he had bad experiences of being interrogated and he usually got the ‘bad cop/bad cop’ routine. They also complained that they were not always treated well by the police. One summarised their concerns when he said: *“They’re trying to say you’re guilty. It’s the way they talk to you. Talking right down to you and treating you like shit.”*

2.8.2.4. Interrogation techniques

Some of the techniques used by officers in the 12 interrogations examined are set out in Table 6.

Table 6. Police interrogation techniques

No.	Type of offence	Legal advice	Comment or no comment	Style of interrogation
1	Burglary	Yes	No comment	Persuasive
2	Assault	Yes	Comment	Repetitive questioning and accusatory
3	Robbery	Yes	Comment	Active listening then accusatory
4	Criminal damage	Yes	Comment	Active listening and persuasive
5	Theft of vehicle	Yes	No comment	Persuasive and accusatory
6	Robbery	No	Comment	Active listening and persuasive
7	Assault with intent to rob	Yes	No comment	Persuasive, oppressive and accusatory
8	Rape	No	Comment	Active listening
9	Burglary	Yes	No comment	Persuasive techniques and accusatory
10	Supply class B drugs	Yes	Comment	Active listening
11	Assault	Yes	Comment	Persuasive techniques and accusatory
12	Assault	No	Comment	Active listening

There were three cases where ‘active listening’ is the only interrogation technique adopted, which meant that the officers were calm and friendly throughout the interrogation. In two of these cases the juveniles gave a candid account in which there were admissions made, at least to some offences. The third case involved a Voluntary Interview and it seems that the police were taking the opportunity to gather evidence after the juvenile had been named by a co-accused as being one of the people involved in the assault. In the other interrogations there were

seen to be different techniques adopted by officers in order to put suspects under pressure to respond to their questions and/or to make a confession.

In two cases the officers had started out in the interrogation by being calm and friendly but this was to change. When dealing with an offence of robbery, for example, the juvenile responded to all police questions and while accepting that he was present when the offence took place he denied any involvement. The officers initially adopted a friendly attitude with the juvenile and after he responded to their questions one said: *"Thanks that's lovely. Thanks for giving your account."* Requiring further information the officers went through statements made by the victim and other witnesses. After around 50 minutes of questioning their attitude changed. One asks him: *"Are you telling the truth? It's your opportunity to tell us the truth now."* The juvenile still denied his involvement in the offence and the officer got annoyed and said: *"We're not going to sit here all day. We've given you every opportunity to tell your story."* At this point the lawyer intervened saying that he had answered all of their questions. It was not that the juvenile was refusing to answer police questions in this case but that his responses did not fit in with the police version of events.

There was one case where the police sought to maximise the seriousness of the offence in order to encourage a response. In this case a 13 year old was told by the police that an offence of 'assault with intent to rob' was very serious and it would have to be heard in the Crown Court in front of a jury. The lawyers in the focus group were critical of the police for sometimes exaggerating the seriousness of the offence, or the likely outcome, in order to elicit a response. One lawyer described how in one case the police had arrested his client for an offence of wounding without the intention to cause really serious harm (under section 20 of the 1861 Act) but in the interrogation they dealt with him as if he had been arrested for the more serious offence of wounding with intent (under section 18 of the 1861 Act). In particular, he reported that the police told his client he was being dealt with for a 'grave' crime which could only be heard in the Crown Court and that the sentence would require a lengthy term of imprisonment. The lawyer said he intervened correcting the officer by saying that a section 20 offence was not a 'grave' crime and it could be heard in the youth court.

Another way the lawyers said the police would try to maximise the seriousness of the offence was to tell juveniles arrested for robbery that they were facing life imprisonment. An officer in the robbery squad accepted that this was his tactic saying: *"I tell them they are facing a life sentence unless they tell me what happened."* With this being the maximum sentence for robbery available to the court the officer did not consider that he was misleading the juveniles. On the contrary, he commented on the lawyers: *"Not liking it when I point out what can happen if they remain silent."* The lawyers, on the other hand, were critical of

the police for exaggerating the seriousness of the offence because a life sentence, commented one lawyer: *"Just doesn't happen with juveniles."*

The reverse tactic, of the police seeking to minimise the seriousness of the offence or the outcome was also commented on by lawyers. In some cases, for example, the police would tell juveniles they were only looking at a fine when a more severe penalty was likely. There was one interrogation observed where the police tried to minimise the role of the suspect in an offence in order to encourage an admission. This case involved an offence of theft of a vehicle to which the juvenile had made 'no comment' replies to police questions. In seeking to encourage a response one officer said: *"There's no suggestion that you were the driver. In fact the evidence suggests that you were the front-seat passenger. If you got in and didn't know it [the car] was stolen then you should say so."* The police seemed to imply that by accepting he was a passenger in the vehicle he would not be committing an offence. It seems the juvenile wanted to respond to this question but instead there was a break while the lawyer had a consultation with his client. When the interrogation resumed the juvenile continued to exercise his right of silence. Later on the officers contradicted themselves by saying that it would have been obvious to anyone in the car that it had been stolen as it had been hotwired and the cowling was hanging off. Pointing this out, the officers were now telling the juvenile that if he was a passenger he was committing an offence of joy-riding.

Various tactics were described by the lawyers when commenting on the police putting juveniles under pressure in the interrogations. One said: *"They can start off with a 'softly-softly' approach when dealing with a child but within ten minutes they are treating them the same as an adult."* The juveniles reported that if they made 'no comment' during the interrogation some officers would try to 'trip them up'. One said that the police would start to ask banal questions such as: *"What did you have for breakfast?"* or *"What's your name?"* in order to try and get them to respond. The police said that it was annoying for them to have 'no comment' replies. One officer said that he would sometimes ask neutral questions to try and encourage juveniles to talk about what happened. Another officer said that his tactic when dealing with juveniles who refused to comment was to stop asking questions and instead he would stare at them. While this could be effective in getting a response he said: *"It works for three minutes or so but that's it."*

The juveniles also commented that sometimes during the interrogation they would laugh or smile and the police sometimes tried to use this against them. While they said it was not appropriate for them to act in this way they could not always help it. As one of them put it: *"They make you feel nervous, like you've got something to hide when you haven't. It makes you look guilty when*

you're laughing." The juveniles acknowledged that it could be annoying for the police if caught smiling or laughing, particularly as it made them look cocky or disrespectful. On one occasion a juvenile described how the police used this as a tactic against him. During the interrogation, for example, the officer said to him: *"I'd appreciate it if you didn't smile at me."* Both his lawyer and AA intervened because he had not been smiling but the juvenile recognised that the officer's intention had been: *"To make me look bad."* This tactic was seen to be used early on in an interrogation when, after receiving a couple of 'no comment' replies the officer said: *"Why are you smiling? Do you find it funny?"* The juvenile replied "No" but the officer continued asking questions in an accusatory way putting pressure on him to respond.

2.8.2.5. Lawyers' interventions

A lawyer was involved in nine out of the twelve interrogations observed and in all but one of those cases the lawyer intervened. As highlighted in Table 1, there were various reasons for their intervention, including providing information to the police and advising their clients. In four cases the lawyers' intervention was to challenge the police. In one case, considered above, it was when the attitude of the police changed and they put the juvenile under pressure to answer their questions that the lawyer intervened pointing out that he had answered all of their questions. The officers then concluded the interrogation.

There were two cases where the lawyer intervened over the way in which the officers were advising juveniles about how 'adverse inferences' could later be drawn at court. In the first case the juvenile was arrested with two others on suspicion of burglary. After having received 'no comment' replies to the first few questions the officer said: *"If it's nothing to do with you then now is a good time to tell us. If you don't then one conclusion that can be drawn is that you know the boys because otherwise you would be saying that you weren't there and that you didn't know them."* At this point the lawyer intervened and told the officers: *"On balance I have advised my client to make 'no comment' because I've only had partial disclosure. It does not naturally follow that a court will think that he must have something to do with the burglaries."* In the second case, after receiving 'no comment' replies to his questions the officer said: *"Your solicitor has obviously told you not to respond to any questions."* The lawyer interjected saying it was inappropriate for the officer to comment on what his advice might be as this was privileged information. In response, turning to the juvenile the officer said: *"With respect it's just advice you received from your solicitor and you can go 'no comment' if you want but it won't wash in court and there's stated evidence to this effect."* The lawyer corrected the officer saying that the court has to take into account the legal advice received when deciding whether or not adverse inferences could be drawn.

The intervention from the lawyer in the fourth case was not heard on the tape recording but at a point when the officers were putting the juvenile under pressure to comment the lawyer had a consultation with his client. In this case, considered above, the police had tried to get the juvenile to accept that he was a passenger in a stolen vehicle. Instead of interjecting during the interrogation the lawyer quietly intervened by requiring a private consultation with his client following which the juvenile maintained his 'no comment' replies to police questions.

There were three interrogations observed where the police were putting suspects under undue pressure to answer their questions but there was no intervention from the lawyer. In one case it was the AA rather than the lawyer who challenged the officer for repeating the same questions in order to encourage a response from the juvenile. Interestingly, the lawyer disagreed with the AA that the style of questioning was inappropriate. He said: *"If I'd thought there was a problem I would have intervened."* To which the AA replied: *"There is a problem. He's answered all their questions but they keep asking him the same thing."* In the second case, the juvenile had been arrested for an assault and while he said there was an incident he denied hitting the victim. At one point the officer tried to undermine his credibility when stating:

"I've seen both of you. You're confident and articulate and I'm finding it easy to speak with you. I've met [the victim] and he doesn't strike me as the sort of person who would push past you. He's very timid. That's just my opinion. That's what I'm saying. I'm a bit shocked having met him that this would happen."

The lawyer did not intervene and challenge the officer over the inappropriateness of this comment.

Different tactics were adopted by the police in the third case when trying to put a 13 year old under pressure to respond to their questions. In this case the juvenile had been arrested for an offence of assault with intent to rob and his mother acted as the AA. With the juvenile making 'no comment' the police tried to put him under pressure to talk. As noted above, this included asking him why he was smiling during the interrogation and saying that the case would be heard in the Crown Court. The officers also gave their opinion on occasions and made accusatory comments. At one point, for example, an officer said: *"The evidence against you is very strong and if you don't admit it do you really think a jury will believe you?"* The other officer noted that he had not tried to deny the offence saying: *"If it was me I'd be shouting from the roof top that I'm innocent and telling the police where I was. How do you think making 'no comment' is going to look in court."* Further comments included the officers saying: *"Were you out looking for someone to rob?"* and *"How many times have you robbed people?"* Eventually,

under pressure, the juvenile said: *"I didn't do anything."* There was then heard a sob and he started to cry. As the juvenile was able to exercise his right of silence the lawyer did not intervene, although it was clearly upsetting for the juvenile to be subjected to such pressure in the interrogation.

2.8.2.6. Appropriate adults' interventions

Set out in Table 3 above are a number of reasons why the AAs intervened during the interrogation. There were just two cases where the AA was critical of the police. In the first case the AA was the juvenile's mother and she intervened on a number of occasions for different reasons. The juvenile had been arrested for an offence of robbery and the AA started out by trying to be helpful by responding to police questions about her son's movements after school. Having described his usual route home, for example, the AA suggested that the police should examine CCTV evidence in order to help establish an alibi. As the interrogation progressed it became evident that the officer did not believe the juvenile was not involved in the offence. At this point the AA got annoyed and she reprimanded her son for helping the police saying: *"You're being too friendly, too nice. Can't you see they're stitching you up."* The officer then read out from the victim's statement which said he had been robbed by someone wearing a mask. While he could not see the offender's face he thought he recognised the voice and asked if it was X [the name of the juvenile]. On receiving the reply: *"Yes it's me,"* the officer confirmed this is why the juvenile was arrested. The officer said they would be conducting an ID parade and the AA was critical of this decision saying that the victim had not seen the offender's face but as he had been given her son's name he would be picked out. Her representations were ignored and the AA asked for a lawyer but the officer said the interrogation was concluded but he would arrange for a lawyer to see the juvenile at the police station.

The other case in which the AA criticised the police, mentioned above, concerned a juvenile who had been arrested for assaulting his sister and his father was acting as his AA. In this case the juvenile was responding to questions during the interrogation but not to the satisfaction of the police. The tactic adopted by the officer was then to repeat the same questions ignoring the juvenile's replies in order to put him under pressure to change his story. Eventually the AA intervened asking the police: *"Why are you grilling him in this way, he's a 16 year old boy. He has answered your questions and you ask him again and again."* While the lawyer did not agree that the police questioning was inappropriate, the officer stopped using the tactic of repeating questions following the AA's intervention.³²

³² The effectiveness of AAs, particularly when family members and friends take on this role, has been questioned in earlier empirical research (see Hodgson and Kemp 2015, p. 141) but in this case it was the AA and not the lawyer who was effective in challenging the police.

In most other cases there was little input from the AA and when they did intervene this was generally intended to help clarify issues or to provide the police with additional information. In one case, for example, the AA intervened in order to clarify a legal issue with the police. In this case the juvenile had been arrested with a co-accused for causing criminal damage to a house and his mother was acting as his AA. The juvenile admitted to being present when the damage was caused but he was reluctant to name his co-accused as the culprit. When the police read out the victim's statement, in which he stated knowing both suspects, the lawyer said to his client:

"You can tell the officers who did it as your evidence can't be used against him as you are a co-accused. Whatever you say it can't be used in a court of law and so it's irrelevant."

The juvenile then named his co-accused as the person responsible for the damage. Towards the end of the interrogation the AA intervened asking the officer to clarify that the co-accused would not know that it was her son who named him as the offender. The lawyer responded to the question saying that the co-accused will know this because he will get a copy of her son's statement. The AA then pointed out that her son was concerned for his safety when saying: *"Look at him. He's rubbing his face and he's obviously frightened of what will happen."* This intervention suggests that the juvenile had been misled by the lawyer and that a private consultation could have helped to clarify his concerns.

There was one case where the officer had told the AA, the juvenile's mother, not to answer questions on her son's behalf but during the interrogation he asked her a number of questions. In this case the juvenile had been arrested for an assault and after having established that he told his mother about the incident the officer asked her why she had not reported it to the police. She replied: *"I looked at it as a school boy skirmish. I didn't know it was serious at the time."* Later on in the interrogation the juvenile tells the officer that he was sent text messages threatening him with violence following the assault. The officer asks the AA if she was aware of the threats and when she said not he then asks the juvenile: *"If you're so concerned why haven't you shown the texts to your mum."* He responds saying he was not concerned for his safety but he wanted the police to know that he had been threatened. By seeking further information from the AA in this case, the officer was trying to undermine the juvenile's version of events and he also took the opportunity of asking the AA questions as if she was a witness in this case.

2.8.2.7. Confrontations

It was after the police had given juveniles the opportunity to give their account of events that they sometimes produced or commented on other evidence. As set

out in Table 7 is the extent to which evidence was presented to juveniles during the 12 interrogations examined.

Table 7. Evidence presented to suspects during interrogations

Evidence presented	Yes	No	Total
Discrepancies in own statement	0	12	12
Witness statement	6	6	12
Victim statement	7	5	12
Co-accused statement	1	11	12
Forensic evidence	0	12	12
CCTV evidence	0	12	12
Other documents	0	12	12
Hypothetical evidence	6	6	12
Other evidence	0	12	12
Other confrontations	0	12	12

The most common form of evidence produced was noted to be statements made by either victims or witnesses. In most cases production of this evidence did not have an effect on what was said by the juvenile in the interrogation. However, there was one case, involving an offence of criminal damage, where the juvenile did change what he said after being confronted with the victim's statement on the advice of his lawyer. In another case, involving an assault, the officer read out statements from the juvenile's mother and sister saying that he had stamped on his sister's head. The officer pointed out that their evidence was credible and when asking the juvenile to respond he said they both must be lying. The way in which juveniles were confronted with victim and/or witness statements during the interrogations suggested that the details had not been disclosed to the lawyers beforehand.

In one case the juvenile was being interrogated over an offence of rape and he did not have a lawyer. It was only towards the end of the interrogation that he was confronted with the victim's statement. By this time he had given a detailed account of what happened, which included consensual oral sex and inserting his penis into her vagina: *"For about four seconds"* and by *"About an inch or so."* In the victim's statement she agreed to having had oral sex with the juvenile but said his penis had not touched her vagina. Crucially, it was only when producing the statement that the police revealed that she was just 12 years of age, which is below the age at which in law she could consent to sexual activity.

There were six cases where juveniles were confronted with hypothetical evidence. In three cases the police commented on the potential for CCTV images being available which, hypothetically, could help to support the prosecution case. Similarly, in another three cases officers hypothetically referred to the possibility of obtaining forensic evidence. These related to forensically checking items which included a mobile phone, a bottle, and a metal bar.

2.8.2.8. The end of the interrogation

It was usual at the end of the interrogation for one officer to summarise the key points arising. Generally the police would then ask those present if they had anything else to say. The time the interrogation ended is noted and the recording is switched off. With the interrogations being taped recorded there was no written statement for the parties to examine.

2.8.3. *Suspect behaviour*

Most of the juveniles said they would always have a lawyer when arrested by the police and tended to follow his advice in the interrogation. As noted above, the advice could vary depending on different factors, sometimes responding to some or all of the police questions or otherwise making 'no comment'. Research has shown that due to the passivity of most clients their lawyers are influential in their pleading decisions³³, although the lawyers pointed out that clients did not always follow their advice. When advising juveniles to give their account of what happened to the police, for example, a lawyer said their advice was sometimes ignored and 'no comment' responses were made.

2.9. RECORDING OF INTERROGATION

2.9.1. *Written record*

The lawyers said that a summary of the interrogation was prepared in cases taken to court but only in those proceeding to trial is a transcript made available.³⁴ It was while the police were preparing a transcript that the recorded interrogations were examined in this study. Accordingly, a written record had been prepared by the police and in nine out of the 12 cases a copy was made available. While there were no cases where a verbatim transcript of the interrogation was made, there were detailed accounts provided. In most cases

³³ See Bottoms and McLean 1976, McConville *et al.* 1994 and Goriely *et al.* 2001.

³⁴ It was not possible to examine the summary made of the interrogation for the first court hearing.

these tended to follow what was said in the interrogation, although in a couple of cases, where the juveniles had exercised their right of silence, a number of questions were brought together to which the response noted was 'no comment'. In most of the written records examined there was seen to be a fair summary of the interrogation but seldom did this include details of interventions made by either the lawyer or the AA.

2.9.2. Audio or audio-visual recording of interrogations

The majority of police interrogations in England and Wales are audio-recorded but when conducting Voluntary Interviews a contemporaneous written record can be made in the absence of any recording equipment. All the interrogations examined in this study had been audio-recorded. The AAs said that it was only in relation to very serious offences, such as murder, that they had been involved in an interrogation recorded audio-visually. This was the experience of most police officers, although one did say that he worked in a station where all interrogations were now audio-visually recorded, including for minor offences. In the officer's view, the audio-visual recording of the interrogation made little or no difference to the way this was conducted.

There were differences of opinion expressed both within and between practitioners in the focus groups as to the potential benefits of making an audio-visual record. Most AAs and the police seemed to think this could be helpful, although for different reasons. Feeling that this would be fairer for juveniles an AA said: *"It would be helpful to see the non-verbal stuff which goes on. People nod and it would be useful to see them."* It was felt that an audio-visual record could also help to show juveniles who were clearly anxious and worried about what was happening, which anxiety could not be reflected in a written summary of the recording. For the police, on the other hand, an audio-visual record was thought to be helpful in picking up on the negative demeanour and body language of juveniles during the interrogation. As one police officer put it: *"A video would help to show the police acting professionally while the suspect is slouching in the chair looking like they don't give a toss. Sometimes suspects can sit there laughing and this won't go down so well."* A couple of juveniles said that their interrogation had been audio-visually recorded. One complained that the camera was directed at him rather than on the police and he felt this was unfair. In particular, he said that the police used this to their advantage as they were smiling and pulling faces at him trying to goad him but he was unable to respond because it would not have looked good on the video.

3. VULNERABILITIES

3.1. VULNERABILITIES RELATED TO AGE

There were differences of opinion expressed among the practitioners concerning the vulnerability of suspects related to age. For the police, apart from requiring an AA, and adapting their language to make sure the juvenile understands questions asked in the interrogation, there was said to be little difference in the treatment of adults or juveniles. The priority for the police was to ‘get a result’ and, as one officer put it: *“They are a suspect regardless of their age or the offence.”* For the lawyers, on the other hand, all juveniles were considered to be vulnerable because of their age.

The AAs recognised the vulnerability of juveniles due to their age but there was a difference of opinion about how far this extended to all juveniles. Due to their social work background, the YOT AAs all saw the juvenile as vulnerable: ‘Just by reason of their age’, pointing out that there could be various different reasons for their vulnerability. A YOT AA, for example, said: *“How they are arrested can determine what mood they’re in, how well supported they feel and how safe. It can be terrifying and confusing for some of them when brought into custody.”* With a background in law enforcement, a couple of volunteers commented on some prolific offenders being cocky and disrespectful. One said: *“We get a lot of regular offenders who don’t give a monkey’s. They know what they’re doing.”* The other said: *“I don’t like it when you get a suspect who shows no remorse and even laughs about the offence.”* A police officer said he had a background in social work and he used to consider all juveniles to be vulnerable. However, since joining the police he has more of a focus on the victim which he acknowledged had changed the way he dealt with juveniles. As he put it: *“I speak differently to them now I’m in the police. As an officer I know I’m being less sympathetic and more firm and harsh with them.”*

The YOT AAs felt it was important to focus on the vulnerability of juveniles even if being disrespectful and not seeming to care that they were in custody. This YOT AA said: *“Some will often put on an act, a show of bravado. This might make it seem that they don’t care while internally most are frightened.”* The juveniles all said how nervous they were when being interrogated by the police. One said: *“Once the tape machine goes on it starts beeping for a long time. When it stops you’re sat there with the tape recording thinking ‘fucking hell’.”*

3.1.1. *Mental ability and cognitive development*

The police acknowledged that due to their maturation juveniles could have difficulties in understanding their legal rights and for this reason it was important that these had to be communicated to them in the presence of an AA. They also commented on needing to break down their legal rights into simple language. The lawyers said more time needed to be spent with juveniles because it was difficult for them to comprehend their rights and to understand what was happening. As one lawyer explained: *"We have to break things down more, use simple language and go into sufficient detail so they easily understand what can be quite complex issues."*

There was one officer who commented that more attention should be paid to the mental ability of juveniles rather than their physical age. He said: *"Some 14 or 15 year olds can have the mental capacity of a 10 year old. Others can have ADHD and other problems."* The lawyers also pointed out that many juveniles could be experiencing mental health problems. Summarising such concerns one said:

"A lot of kids have ADHD, it's more common now. They can be very impulsive, which also makes them vulnerable. You can get a violent outburst in the interview to things like repeated questions which annoys them."

Instead of the police taking into account the vulnerability of juveniles diagnosed with mental health problems the lawyers were critical that such factors can be ignored. As this one explained: *"The problem is that so many kids have ADHD that the police just see it as an excuse for misbehaving."* A lawyer did say that the police response to mental health issues could improve if given more information. On one occasion, for instance, he described how a juvenile client with Asperger's syndrome had been arrested by the police. He commented: *"He kept a letter with him which said he had Asperger's. The police read this and were brilliant. They dealt with him sensitively and did a good job."*

The AAs understood the need to take into account the mental ability and cognitive development of juveniles but there was a stark difference in the resources available to them. As noted above, in areas where the YOT provided AA services this meant that the AAs had access to other YOT workers and mainstream services while the volunteer AAs did not. There was a similar situation described by the lawyers with volunteers providing AA services in their area which meant that the local YOTs, social workers or mental health teams were not involved in juvenile cases in the police station. The practitioners saw this as a striking omission, particularly as the vulnerability of juveniles in custody is exacerbated if there are health and/or welfare problems.³⁵

³⁵ See Bottoms and Kemp 2007, p. 149–153.

While perceiving the process of detention and interrogation to be part of their punishment, the juveniles did not see that the police would be interested in their vulnerability. As one juvenile put it: *“The police aren’t there to look after you they are there to scare you. To stop us from offending and deter us from going back into custody.”* From their perspective their interactions with the police were described as ‘playing games’. It was conceded that in ‘taking on’ the police this could impact on their treatment in custody. One juvenile said he sometimes got what he deserved from the police when he commented: *“If I’m being alright with them then they will be okay with me. If I’m acting like a knob though I expect them to be a knob to me.”* The YOT AAs saw the bravado and disrespectful attitude of some juveniles in custody as raising questions about their vulnerability and whether they possess the cognitive ability and understanding necessary to exercise their legal rights.

3.1.2. Emotional ability

It was being in a cell for a long time that juveniles said was the worst thing about being held in custody. They complained that the bed was uncomfortable, the cell was either too hot or too cold and it was noisy. One juvenile said: *“It was a nightmare. You can’t sleep, because there’s so much noise.”* While being held in a cell is unpleasant for all suspects, the AAs pointed out that it was a particularly difficult experience for juveniles. The juveniles described certain events as humiliating and being difficult for them emotionally. These included having to wear ‘plastic trousers’, which were said to be too big for them, if their own trousers had cords and had to be removed for their safety. The juveniles were also upset about having a camera in the cell, particularly as they felt the police could look at them when using the toilet. One juvenile complained of being punched by a detention officer in this cell.³⁶ Another objected to seeing the police restraining a prisoner in handcuffs and straps on their legs. He said: *“It doesn’t look right. You’ve lost your human rights altogether when you have coppers carrying you to your cell.”*

The juveniles also commented on the poor quality of the food as being an important issue for them in custody. Described as ‘horrible’, one said that he had not eaten anything when he was last in custody and when he was eventually released he almost fell downstairs because he was faint from hunger. A lawyer pointed out that the food could be a major issue causing problems emotionally for juveniles while in custody. He said:

“It might seem to be a minor thing refusing to eat but they can’t distract themselves while waiting in their cell. It ends up that they are desperate and will do whatever they think is necessary to get out of custody.”

³⁶ The juvenile said that he made a complaint about this but he could not proceed because the CCTV evidence had gone missing.

The lawyers criticised the police in their local station for failing to recognise the emotional vulnerability of juveniles held in custody. From a police perspective, however, a couple of officers pointed out that custody was a safe environment for them. As this officer put it:

“Once they come in here it’s a fairly safe place for them to be as we’re constantly checking their rights. We have the staff here to look after them. I can’t see that we can do anything more to safeguard them.”

When talking about specific cases, however, the lawyers highlighted particular vulnerabilities. In one case, for example, a lawyer said he was currently dealing with an 11 year old who had been arrested for assaulting his mother. He was arrested at 22:00 hours the night before and by the time of the focus group, at 17:00 the next day, he was still in his cell waiting to be interrogated. In a similar case, another lawyer said that he had an 11 year old who had been arrested for an assault following an argument in the family home. The lawyer said that the child was frightened because his mother refused to come down to the station and so he would not leave his cell. He described how the police stood at the cell door trying to ask him questions about the offence.

Without the involvement of the YOT or social services in the custody suite the lawyers complained that there was no one available to deal with the emotional needs of children which meant that they sometimes had to discuss sensitive issues with them. In cases where a juvenile was brought into custody following an incident in the family home, for example, a lawyer reported that he sometimes had to explain that they were going into care. It was felt that such information was better coming from the lawyers than the police. Indeed, one lawyer reported that following an interrogation he heard an officer tell the juvenile: *“You’re going into care by the way, now back to your cell.”* In the past the lawyers said that social workers would have dealt with such issues.

3.1.3. Social context

The AAs pointed out that the social context for a juvenile’s offending could be an important indicator of their vulnerability. Such factors included what was going on in their home life, with one AA saying that he was dealing with a juvenile who kept stealing food because he was not fed at home. Another AA said that child protection issues could lie behind much of a juvenile’s offending. Accordingly, as one AA put it: *“If we have a juvenile who starts offending the key question is to ask why?”* A YOT manager also said that the status of a repeat offender should be recognised: *“As a signifier of their vulnerability.”*

The police also commented on the social context of juveniles' lives as having the potential to influence their offending behaviour. As one officer explained: *"Something could be wrong at home or they can be exploited by people. Even when coming over as cocky they could still be vulnerable."* Another officer was critical of schools for not doing more to cope with minor offences. Instead, he said:

"The teachers try to kick them out of school saying it's not their problem or call the police. We are the last line of defence but if they've been arrested five times already then something is wrong."

One officer was critical over the lack of support from other agencies. In particular, he noted: *"It's got to the point where we need to lock them up to protect society. Maybe social services and the other agencies just aren't working."*

3.1.4. Short term reasoning

The response of juveniles when brought into custody could sometimes be due to their short term reasoning but they did not always recognise that this could have a negative impact on their detention. When saying that they would sometimes 'kick off', for instance, this generally led them to being placed in a cell to calm down, thereby extending their time in custody. A juvenile said he would constantly ring the bell in his cell to annoy the police, not appreciating that in retaliation officers could delay dealing with his case. Another juvenile felt empowered in the interrogation saying: *"The police can't do anything to me. When I laugh in the interview they can't do anything about it."* He then reflected that the last time this happened the police brought him back into custody on five different occasions for the same offence.

In the interrogation the juveniles referred to the police playing 'mind games' with them in order to get a confession. By referring to the interrogation as a game, and one in which they felt able to 'take on' the police, the juveniles highlighted their short term reasoning. In particular, one juvenile said he sometimes declined legal advice because he felt able to cope on his own. As he put it: *"I don't see the point in having them [a lawyer] to be fair ... The police try to play you and you can play them."* He later said about the interrogation: *"It's all mind games. If you confuse them they don't know what they're on about and it's a crap interview."* Without understanding the legal context in which interrogations are conducted, such bravado helps to highlight the vulnerability of juveniles.

It was also probably due to the short term reasoning of juveniles that they could get frustrated in the interrogation, particularly if this took a long time. A couple of juveniles reported having been interrogated for two hours and more without a break. The police acknowledged that it can be frustrating for them to sit through

a long interrogation, particularly after having given their account of events within the first two minutes. While the police said when interrogating juveniles a break would be taken after ten or 15 minutes, there were no such breaks observed in any of the recorded interrogations. The lawyers said that rarely did they experience breaks being taken, although this did happen when the police interviewed juvenile victims and witnesses.

3.2. VULNERABILITY DUE TO LACK OF LEGAL ASSISTANCE

The AAs said that it was important for juveniles to have legal assistance in the police station, particularly as some do not understand what a lawyer is and how they can help them. It was also pointed out by the AAs that some juveniles were deterred from having a lawyer because they thought they had to pay. The lawyers also raised concerns over juveniles being discouraged from having legal advice. When asking clients at court why they did not have a lawyer in the police station, for example, one said a common reply was: *“The police told me it would take at least an hour to get one down to the station.”* Not surprisingly, such a delay put juveniles off having legal advice.

From the interrogations examined there were a couple of cases where the juveniles were seen to be vulnerable due to the lack of legal assistance. In one case the juvenile was evidently vulnerable when arrested by the police for a serious offence of rape. He was interrogated without a lawyer despite replying to the officer’s question that he did not know what ‘rape’ was. The officer did not explain the offence of rape and neither did the AA intervene and ask him to do so. In another case the juvenile had responded to police questions but at the end of the interrogation it was obvious he was not believed as the officer said there would be an ID parade. While at this point the AA recognised the need to involve a lawyer, it was too late for them to be present in the interrogation.

Most of the AAs felt there were sufficient legal safeguards for juveniles, although this was in the context of their requiring a lawyer to be involved in such cases. The lawyers said that while in theory PACE provided sufficient legal safeguards for juveniles the problem was that their rights were not always enforced. One lawyer said: *“There’s no check and balance on the police anymore. The custody sergeant used to be an independent and important arbiter of the process in the police station but not anymore.”* Accordingly, the lawyers argued that the legal rights of juveniles needed to be further strengthened in cases involving familial AAs.

The police and AAs identified a gap in legal assistance being available at the conclusion of cases because the lawyers tended to leave the station at the end of the interrogation. The lawyers said that since the introduction of fixed fees for police station work they had to concentrate on the interrogation and they could not financially afford to wait around for the police to make a decision on the case outcome. In particular, one lawyer pointed out that if the case was referred to the Crown Prosecution Service there could be a delay of between two and four hours before a decision was made. The AAs said that they had to be available at the end of cases and there were often legal issues arising which they were unable to deal with. When the police wanted to impose a youth caution, for example, some AAs expressed concern that juveniles were under pressure to accept a criminal sanction in order to get out of custody and avoid court, even if there was no evidence against them.

3.3. VULNERABILITY RELATED TO TYPES OF JUVENILES

3.3.1. *First offender vs. recidivist*

In this chapter differences in the way the police treat juveniles depending on whether they are a first offender or a recidivist have been mentioned. The AAs said that there was a difference with a YOT AA saying: *“The police here are very good. When they have first-timers they show them the cells and explain what’s happening.”* However, he also noted that such attention from the police depended on the juvenile’s attitude. Thus, he said: *“If they’re brought in bouncing off the walls and acting aggressively then they get shoved into a cell. You can get others who are crying.”* Police comments seemed to suggest that juveniles brought into custody for the first time were seen to be deserving of their rights while recidivists were not. Indeed, for recidivists, and those being dealt with for a serious offence, the AAs said their treatment was the same as adults.

3.3.2. *Arrested vs. invited*

The AAs said that their policy was to require a lawyer to be involved in police interrogations of juveniles when they had been arrested and held in custody. However, as noted above when dealing with juveniles invited to be interviewed on a voluntary basis a number of AAs said that they did not appreciate that this was also an interrogation and so they did not have a similar requirement of requiring the involvement of a lawyer. With the focus group having highlighted this misunderstanding, the YOT managers said the issue would be addressed. For the lawyers, while PACE provides legal safeguards for juveniles in custody there are no similar mechanisms available to ensure the PACE rights of suspects are upheld during Voluntary Interviews. On the contrary, the lawyers

complained about ways in which the police tried to deter juveniles from having legal advice. Nevertheless, the lawyers recognised that a Voluntary Interview could be beneficial for juveniles as it avoided being arrested and held in a cell. In addition, for those arrested this information was noted on their criminal record, which information could then be available to others following a Criminal Records Bureau (CRB) check. There was no information recorded in the event of a Voluntary Interview.

3.4. VULNERABILITY DUE TO LONG DELAYS

The main concern raised by the juveniles was being held in a cell for a long time. It was accepted, as one juvenile explained, that they might need to be put in a cell for *“Half-an-hour or so but not all day, particularly when being dealt with for a minor offence.”* On the other hand, the juveniles said that being held in custody was intended to be a punishment. As this one explained: *“If it was like a five star hotel then people would try and get themselves nicked. It’s supposed to be a deterrent and it is. You don’t want to go back.”* The juveniles described boredom as the most difficult thing to cope with, particularly as they had no radio, mobile phone or other distraction in the cell. One said: *“It’s how slow time goes when you are in a cell – it’s painful. There’s nothing to do.”* Another commented that he would count the bricks on the wall to try and keep himself entertained.

There were long delays in most of the interrogations examined where suspects had been arrested. As noted in Table 4 above, eight juveniles were held for 12 hours or more, with two spending almost 24 hours in custody.³⁷ A couple of juveniles also complained about being held in custody for long periods of time. One said that he had been released after 23 hours and 50 minutes in custody and another said that on one occasion he had been held for just over 24 hours.

The lawyers pointed out that one of the principal aims of PACE had been to rule out long delays in the detention of suspects in custody.³⁸ However, despite the police being required to conduct a regular review of detention, the lawyers said that this had no effect on how long suspects were kept in custody.³⁹ It had been intended that the reviews would stop police practices of leaving suspects for many hours in an attempt to ‘cool their heels’ in the hope of obtaining a confession.⁴⁰ Recent research, however, suggests that the reviews are little more

³⁷ Two other suspects had been charged and held in custody until the next available court.

³⁸ See section 37(2).

³⁹ The first review of detention is to be carried out after a suspect has spent no longer than six hours in custody and the second review follows not later than nine hours after the first review and subsequent reviews must be at intervals of no more than 12 hours (see PACE s.40(3)(b)–(c)).

⁴⁰ Maguire 1988.

than a perfunctory exercise having little or no impact on the release times of suspects.⁴¹ The juveniles said they were not aware that the police were supposed to review their detention, although one did say: “*Someone did come up to my cell but only the once.*” Without suspects understanding the significance of the reviews, however, the lawyers pointed out that these were of no value.

Interestingly, the police did not always consider delays to be a problem of their making. As this officer put it:

“There’s nothing the police can do about it. The longest delay we get is in trying to arrange the solicitor, the AA and interpreter. It’s not the fault of the police. You can have all the safeguards but if there isn’t an AA at home and no one at social services then there will be delays.”

Another officer said that delays were beyond the powers of the police and this is why they sometimes needed an extension of time to the 24 hour PACE clock.⁴² In a recent study of police station legal advice, however, custody officers did complain about the ‘long windedness’ of the pre-charge process.⁴³ While the custody officers in that study said that delays were mainly caused by the police, when gathering evidence, they were also critical of the defence. In particular, it was reported that some firms fail to provide sufficient cover at police stations, particularly during out-of-office hours.⁴⁴ While the lawyers accepted that there could sometimes be delays due to a lack of cover, they were adamant that long delays were caused by the police. Accordingly, it was argued by lawyers that a shorter PACE clock was required for juveniles as this could help to expedite matters and reduce their time in custody.

4. SAFEGUARDS AND BEST PRACTICE

4.1. PROVIDING INFORMATION AND CHECKING FOR UNDERSTANDING

It was during the interrogations that officers would provide information and check for understanding, particularly in relation to the modified caution. Different approaches were observed, with some officers just going through the caution and asking the juvenile if this was understood. In most cases, however, the officers would break down the caution into three elements and explain this in their own words. In a small number of cases the officers asked

⁴¹ Kemp *et al.* 2012, p. 747.

⁴² This refers to the initial 24 hours’ detention permitted by PACE.

⁴³ See further Kemp 2013, p. 188.

⁴⁴ Kemp 2013, p. 190.

the juvenile questions in order to check their understanding. However, from the questions some officers put to the juveniles it seemed that the officers did not fully understand the caution, particularly in relation to the potential for *adverse inferences* later being drawn at court. It was also noted how some officers required juveniles to ‘tell them the truth’, contrary to their right to silence and the related privilege against self-incrimination. Indeed, in not one of the interrogations examined were juveniles told that they had a right not to incriminate themselves.

The lawyers felt that their involvement in cases was an important safeguard for juveniles but that their effectiveness had diminished. As this lawyer put it:

“We are essentially the only check and balance on the police. We can raise issues but we have become disenfranchised, certainly in some stations. In our local station there isn’t the environment to do our job. We can’t get to the custody sergeants. People say we should be more robust but we are just side-lined.”

In addition, the lawyers pointed out that in the majority of cases juveniles did not have a lawyer.

To help protect suspects the police are required to handover a leaflet which outlines their legal rights. With the design of the current leaflet the juveniles did not find this particularly informative. It would be helpful if juveniles who had experience of custodial interrogation were involved in designing a new leaflet which then communicated more effectively their legal rights. The leaflet could also include information on the juvenile’s right not to incriminate themselves and to clarify that they are not required to tell the police the *truth* during the interrogation.

4.2. SPECIALISATION AND TRAINING

There were different views expressed between practitioners about the need for specialisation and training. The view of the AAs was that training was required for all practitioners working with juveniles. As this YOT manager put it: *“Anyone routinely working with young people needs some training because otherwise they don’t switch their mind to deal with the case in a child-focused world.”* However, this raises questions about how familial AAs are expected to undertake the role of the AA. The lawyers in the focus group all worked in large criminal departments and by routinely working with juveniles they considered themselves to be specialists. Although, it was acknowledged that many firms do not have the capacity to allow lawyers to become specialists by concentrating on juvenile cases.

The police recognised that while some interrogators were naturally good communicators others were not. One officer said: “Some aren’t interested in the ‘touchy feely’ sort of approach and they won’t bother with training.” When asked if they received supervision or mentoring when involved in the interrogation of juveniles all the officers laughed at this suggestion. One officer said: “*There’s no appraisal process. It’s never done.*” On the contrary, it was pointed out that only when seeking promotion were officers actively appraised. The police said this was wrong and they felt that training and supervision should be required for those involved in the interrogation of juveniles. Indeed, it was pointed out that officers were required to be trained when conducting specialist interviews with juvenile victims and witnesses but not when interrogating juvenile suspects.

It was suggested by a YOT manager that as practitioners involved in the interrogation of juveniles had different roles that joint-training events could help to improve working relations. He described this approach as having worked well in the youth court saying: “*This helped everyone to better understand their roles and to address issues and concerns in a more coordinated approach. It also helped to get cases through to court a lot quicker.*” The volunteer AAs were not so keen on this idea. Pointing out their limitations one said: “*There’s resources available in other areas which enables a ‘Rolls Royce’ AA service to be provided. We can’t get other practitioners involved. That’s the issue which needs to be addressed for us.*” Nevertheless, at the end of the focus group interview the volunteer AAs were pleased to accept an invitation from a YOT manager to attend their next training event. The lawyers agreed that joint-training could help practitioners to gain a better understanding of their roles but said this would only be effective if the police were prepared to engage. In particular, the lawyers felt that it would be useful for the police to see how the issue of disclosure influences what advice is given to clients in exercising their right of silence.

4.2.1. Specialisation and training for lawyers

The lawyers took the view that the current accreditation scheme for police station legal advisers was sufficient, even though it does not include training on how to deal with juveniles. This was not the finding arising out of an independent review of the youth justice system. Chaired by Lord Carlile, QC, the review found that lawyers are insufficiently trained to recognise the needs of juveniles.⁴⁵ Accordingly, it recommended that regulators of criminal defence services should introduce ‘without delay’ a requirement for all legal practitioners representing children at the police station to be accredited to do so. The training to include, amongst other things, the needs of children, including mental health issues, speech, language and communication needs, welfare

⁴⁵ See Carlile 2014.

issues and child development. It was also recommended that: *“Criminal justice system-experienced young people should be extensively involved in the delivery of training.”*⁴⁶

4.3. LEGAL ASSISTANCE

While frustrated that the involvement of a lawyer tends to increase the likelihood of a ‘no comment’ response, the police acknowledged that it is important for juveniles to have access to legal assistance. Recognising the defence role in the interrogation one officer said: *“At the end of the day they are only going their job: protecting their client and not letting them say something which will prejudice them.”* For the lawyers, it was felt that their involvement in juvenile cases was important, not least because of concerns that their legal rights were being undermined. This was the comment from one lawyer: *“The police have drifted away from PACE over recent years. It seems that they don’t know that what they are doing [in the interrogation] is wrong.”* Another lawyer was cynical of the police priority to get a result. He said: *“Sometimes it seems that all they are after is a detection [a criminal sanction] at all costs. A tick in the box.”* Accordingly, it was the view of the lawyers that legal assistance should be mandatory for juveniles interrogated by the police, particularly the younger age group and those being dealt with for serious offences.

4.4. ASSISTANCE BY APPROPRIATE ADULT

It has only been possible in this study to consider the role of the AA from the perspective of those involved in YOT and voluntary AA schemes. The police and lawyers recognised AAs as providing an important safeguard for juveniles, but questioned the extent to which family members and friends were able to take on this role. As this lawyer explained:

“It can be very difficult for a parent to advise their child when a solicitor isn’t there. They won’t know details of the law, such as the concept of ‘joint enterprise’ in a street robbery. Parents also tend to encourage their child to ‘tell the truth’, which isn’t always in their best interests.”

The AAs were similarly concerned that some parents could put their child under pressure to ‘tell the truth’ in the interrogation and to admit to offences when there was no evidence against them.

⁴⁶ Carlile 2014, p. 61.

4.5. JUVENILE FRIENDLY INTERROGATION

In the 12 interrogations examined the juvenile was treated first and foremost as a suspect, with few concessions being made with regard to their age. It was in relation to the ABE model of interviewing juvenile victims and witnesses that the police and lawyers referred to this as requiring a ‘child focused’ approach. The police commented that the ABE model could be adapted for juvenile suspects, pointing out that the ‘truth and lies’ approach was particularly helpful. Some officers also commented on how ABE currently influenced them in the interrogation. One officer said: *“I start to think more about the victim now when I’m interviewing a juvenile.”* As noted above, it is contradictory for juveniles to be advised of their right to remain silent and then be told by the police to ‘tell the truth’. Accordingly, if the ABE model is to be adapted to be used in the police interrogation of juvenile suspects this will need to take into account their legal rights as suspects. A requirement for officers to be trained in using the ABE model could also help to develop a child-friendly interrogation for juveniles.

4.6. PACE BEDS

When juveniles are charged by the police and the custody officer authorises their continued detention, PACE requires that arrangements be made for them to be taken into the care of the local authority and to be detained pending his court appearance.⁴⁷ Despite this being a statutory requirement, the practitioners in the Midlands said that there was no provision made by the local authorities for PACE beds.⁴⁸ A YOT manager pointed out:

“Without this facility it can be harmful to children going through to court. Those held overnight are likely to be tired and agitated. The magistrates will know they have been held in police custody and this can go against them in their hearing.”

When considering safeguards for juveniles the AAs agreed that a key priority for them would be to reduce the length of time they are held in custody and to require local authorities to make available PACE beds.

⁴⁷ PACE Codes of Practice, Para. 16.7.

⁴⁸ After examining six local authority areas based outside of the Midlands area, an inspection team of youth offending found that rarely were children transferred into local authority accommodation following charge (Criminal Justice Joint Inspection 2011). In January 2015, the Home Secretary and the Secretary of State for Education issued a joint statement to the leads of Children’s Services, reminding them of this statutory duty and urging them to take action in advance of its extended application to 17 year olds under amendments to PACE that commenced in October 2015.

4.7. ASSESSMENT

When brought into custody all suspects are assessed by a custody officer to establish that it is safe to detain them. However, as the police pointed out, the assessment often does not take into account whether the juvenile is fit to be interrogated or their level of understanding. Accordingly, practitioners were concerned that no further assessment was required prior to the interrogation. The police were also critical that no assessment was required when interrogating juveniles on a voluntary basis. One officer commented that: *“This will come back to kick us eventually.”*

The Carlile review found that youth justice practitioners were not picking up on the mental health and welfare issues of juveniles. This was despite the review finding that many juveniles who offend have a range of needs, often arising out of family circumstances and their consequences. There is mentioned in the report two services, Youth Justice Liaison and Diversion and Triage services which involve police-station based assessment of a juvenile at the point of arrest, by a health worker and YOT worker, respectively. The aim is to identify children with vulnerabilities and to divert them away from the criminal justice system and into appropriate interventions.⁴⁹ The development of these services into police stations in identifying and accessing support for the needs of juveniles could usefully be extended to include examining a juvenile’s fitness to be interrogated.

4.8. RECORDING OF INTERROGATION

For juveniles arrested the police said that all interrogations were at least audio-recorded, with some police stations now having audio-visual recordings. The lawyers raised concerns that an audio-visual recording could show their client in a bad light, particularly if they were nervous and playing up to the police. However, looking to the future the lawyers acknowledged that the audio-visual recording of interrogations was likely to become more commonplace and this could only be a positive development in helping to make the process more transparent.

5. CONCLUSIONS

The PACE Act in England and Wales provides a comprehensive framework for safeguarding suspects detained and interrogated by the police. Apart from a mandatory requirement for juveniles to have an AA, however, juveniles are

⁴⁹ Carlile 2014, p. 8.

treated the same as adults. This means that from 10 years of age children are responsible for deciding whether or not to have a lawyer, despite most of them not knowing what a lawyer is or how they can assist them in custody. Indeed, a key issue arising out of this study is the lack of understanding of juveniles of their legal rights and the procedures involved in the police interrogation and in police custody.

For almost 30 years PACE has provided safeguards in the interrogation but over the past two decades there has been very little research undertaken examining these protections. The findings from this study resonate with other recent studies which have found breaches of PACE safeguards or the protections are simply not enforced. There are provisions intended to avoid unnecessary delays, for example, but apart from the 24 hours the police are allowed to detain a suspect under PACE there is no restriction on the length of time juveniles can be held in custody. Consequently, the lawyers have suggested a shorter PACE clock for juveniles. Local authorities have a statutory responsibility to provide 'PACE beds' so that juveniles charged and remanded until the next available court can be transferred out of police custody but no such provision is available in the Midlands or in many other parts of the country. PACE also provides access to free and independent legal advice but lawyers raised concerns over juveniles being discouraged from having a lawyer, particularly when being interrogated under a Voluntary Interview. While PACE does have a mandatory requirement for AAs to be involved in juvenile cases, which protection is upheld, there is no similar requirement for mandatory legal advice, even when dealing with very young children and/or with very serious offences.

There were three different types of AAs services involved in the focus group, managed either by YOTs or the voluntary sector. A major difference highlighted between the two service providers is in their ability to draw on other services. The YOT AAs, for instance, are able to draw on other YOT colleagues and mainstream services when dealing with juveniles in custody. Where AA services have been contracted out to the third sector the volunteer AAs complained that they have no access to YOTs or other youth justice workers. It was also noted that in the areas where YOTs have contracted out AAs services that YOT workers, social workers or mental health teams were rarely involved with juveniles held in police custody. This is an important omission concerning the safeguards required for juveniles held in detention and interrogated by the police. In addition, apart from custody officers asking suspects questions about their health and welfare, there is no assessment made of a juvenile's fitness to be interrogated. A requirement for an assessment to be undertaken could provide an early opportunity for juvenile justice practitioners to be involved with juveniles in the police station.

The policy of AA schemes is to advise juveniles to have a lawyer when interrogated by the police and this was seen to be an important safeguard. However, in the majority of cases it is the parents or other carers who act as the AA. It is not known to what extent familial AAs are effective in this role, particularly in the interrogation, and how they might influence the take-up of legal advice. Due to the *ad hoc* way in which family and friends take on the responsibilities of the AA it was not possible to bring them into this study but further research could usefully explore this important issue.

The involvement of lawyers in the interrogation was often found to be an important safeguard for juveniles but in many cases legal advice is declined. In the sample of 12 interrogations there were a number of cases examined where the police tried to put juveniles under pressure either to confess or at least to respond to their questions. Interestingly, such pressure was heard to be exerted irrespective of whether or not a lawyer was involved. While the involvement of a lawyer can help to protect juveniles those without legal advice are particularly vulnerable to police tactics putting them under pressure during the interrogation. The police officers involved in the focus group were critical that there was no requirement for them to be appropriately trained before being allowed to interrogate juveniles. They also commented that while there was a model for 'achieving best evidence' from juvenile victims and witnesses, there was no similar model available for interrogating juvenile suspects.

It would help to improve safeguards for juveniles if their legal rights were clarified and there was a standard way in which their understanding could be checked. There was noted to be some confusion within the police over the right to remain silent, particularly in relation to the potential for later drawing adverse inferences at court. Having cautioned juveniles, and explained the meaning of the caution, there were also some cases where the officers required juveniles to 'tell the truth'. Such an approach seems not only to contradict suspects' right to remain silent but also the associated right not to incriminate themselves.

Within the focus groups with practitioners there was found to be a lack of understanding of each other's role in the interrogation. One area where this was seen to be problematic was over the disclosure of evidence prior to the interrogation. In the main, the police wanted to hold back evidence so the juvenile could be confronted with it during the interrogation. The lawyers, on the other hand, wanted to examine the strength of the prosecution case and if no evidence was disclosed they were likely to advise clients to make 'no comment' during the interrogation. The practitioners said it would be useful to have joint-training events so they could better understand their roles in the interrogation and address any concerns or issues arising.

The engagement of juveniles in this study has been important in highlighting their perception of what happens in police custody and in the interrogation. It was interesting to listen to their complaints about police ploys being used during the interrogation and for the researchers to then hear similar tactics when listening to the interrogations. While most juveniles had been arrested on a number of occasions there was seen to be a lack of understanding of their rights. With some there was also seen to be misplaced confidence as they felt able to 'take on the police' and play 'mind games' with them during the interrogation. Interestingly, while the worse thing for all the juveniles was the length of time they were held in custody, with nothing to distract them, they all accepted this treatment as part of their punishment. It would be helpful if research could further examine the experience of juveniles in the interrogation and to consider the effectiveness of safeguards from their perspective.

While the PACE Act in England and Wales provides important safeguards for juveniles interrogated by the police there are a number of areas where such protections are undermined or simply ignored. A recent review of the youth justice system by Lord Carlile has made a number of recommendations which chime with the findings arising out of this study.⁵⁰ These include requirements for the specialisation and training of all practitioners who routinely engage with juveniles in the criminal process, including the interrogation. Such training should provide practitioners with a better understanding of the vulnerability and needs of juveniles and to encourage a more child-friendly interrogation. In developing training materials, and also leaflets/podcasts explaining juveniles' rights, it would be helpful to involve juveniles who have experience of custody and the interrogation.

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